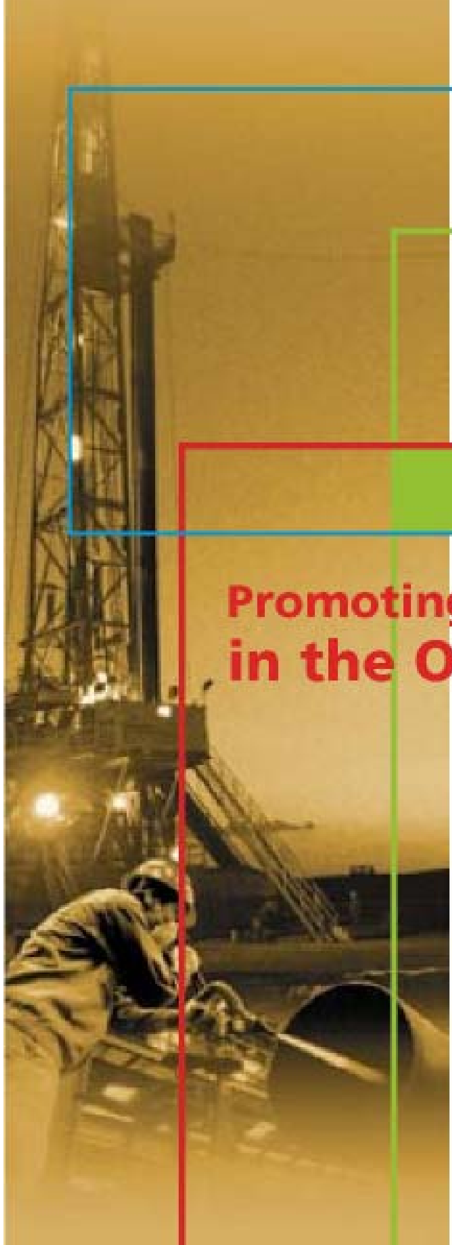
International
Labour
Organization

Jakarta



Working Paper No. 254

# Promoting Good Industrial Relations in the Oil and Gas Industries in Indonesia

Background Paper for the National Tripartite Meeting for Promoting Good Industrial Relations and Social Dialogue in the Oil and Gas Industries in Indonesia

**Ratih Pratiwi Anwar and Muyanja Ssenyonga**

September 2007

**WP. 254**

# SECTORAL ACTIVITIES PROGRAM

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# Preface

The Sectoral Activities Programme is managed by the Sectoral Activities Branch (SECTOR) within the Social Dialogue, Labour Law, Labour Administration and Sectoral Activities Department (DIALOGUE/SECTOR), Social Dialogue Sector of the ILO. Its objective is to promote social dialogue at the sectoral level and to facilitate the exchange of information among the ILO's constituents on labour and social developments concerning particular economic sectors. One of its means of action is practically oriented research on topical sectoral issues.

The particular characteristics of the various primary, manufacturing and service sectors account for the different form taken in them by issues such as globalization, flexible work organization, industrial relations, the implications of structural and technological change, trends in the number and nature of jobs, and the situation of special groups such as children and women workers. The Sectoral Activities Programme constitutes the principal ILO interface with its constituents at the sectoral level.

The Governing Body of the ILO in March 2007 adopted new directions for the Sectoral Activities Programme. Under the new guidance, the activities of the Sectoral Activities Programme are more constituents-driven than in the past. The ILO's sectoral approach will be improved in order to make its activities more meaningful to its constituents and better serve the ILO's four strategic objectives of: (1) promoting and realizing standards and fundamental principles and rights at work; (2) creating greater opportunities for women and men to secure decent employment and income; (3) enhancing the coverage and effectiveness of social protection for all; and (4) strengthening tripartism and social dialogue. The ILO will also encourage the incorporation of sectoral considerations into its general activities and into the Decent Work Country Programmes (DWCPs), and relate that work to the action programmes. To meet these goals, the Governing Body approved the Sectoral Activities Programme, which sets priorities through the creation of groupings of sectors and advisory bodies. Advisory bodies, composed of constituents and supported by the ILO, will review the content and types of sectoral activities in order to assist the ILO in its work with the Committee on Sectoral and Technical Meetings and Related Issues (STM) and the Governing Body.

The following advisory bodies are currently active within the Sectoral Activities Programme.

- Agriculture and forestry;
- Energy and mining;

- Manufacturing;
- Infrastructure, construction and related industries;
- Transport;
- Private sector services;
- Public services and utilities; and
- Education and research.

The principal activities of the Sectoral Activities Programme are a mix of the development and undertaking of constituent-driven practical action programmes in various sectors in a number of countries, and the holding of international sectoral meetings that provide a forum for discussion and an exchange of views on current issues in the sector concerned. These activities are generally tripartite, with equal participation by governments, employers and workers. Where the government is the predominant employer, however, participation reflects this. From time to time, specialized meetings of experts are held. The outcome of most meetings is a set of agreed conclusions that serve as guidelines for policies and measures for dealing with the issues and problems in that sector – at the national level and by the ILO.

The Programme undertakes follow-up activities to these meetings and provides various forms of technical assistance, including the promotion of tripartite sectoral dialogue on priority labour issues at national level, and the provision of advisory services on sectoral labour issues. It also collects, analyses and disseminates technical sectoral information and carries out studies, such as this one, on issues of concern to particular sectors or groups of sectors.

The ILO hopes this paper will provide an opportunity to concider how industrial relations can be improved in the interests of both decent work and greater prosperity of the oil and gas industries in Indonesia.

# Introduction

Oil and gas are essential components of modern, industrialized civilization, and as societies and economies grow, so do their oil and gas industries. The oil and gas industries have revolutionized human lives, improving our standard of living, and their products constitute building blocks at every level of production and consumption in the key sectors of economic life. A stable supply of oil and gas is needed to sustain the continued development of our economies. Both industries are highly capitalized. However, significant parts of their operations still rely on human input. Stable employer-employee relations are, therefore, critical to stable production and supply of oil and gas.

Oil and gas production and refineries in Indonesia have seen major developments in recent years as a result of both external and internal factors. Some external factors include waves of mergers and acquisitions of multinational oil companies, the increasing uncertainty of crude oil prices, and increasing pressure on the oil and gas industries to comply with laws, regulations and voluntary initiatives. Internal factors include administrative burdens stemming from changes in labour and employer-employee relations laws and a number of laws regulating the oil and gas industries. These external and internal factors have directly affected jobs and industrial relations within Indonesia's oil and gas industries, which common interests are shared by Government, employers and workers. Social dialogue is an important tool to foster good industrial relations and promote employment security in the oil and gas industries.

This paper has been prepared by Ratih Pratiwi Anwar, economist and researcher at the Center for Asia and Pacific Studies at Gadjah Mada University, and Muyanja Ssenyonga, visiting scholar to the Center. The aim of the paper is to provide an overview of the oil and gas industries in Indonesia and industrial relations within those industries. The paper will outline essential elements for good industrial relations. Among the subjects addressed by the paper are the positive contributions social dialogue can make towards promoting mutual respect, trust and confidence among social partners and governments in the oil and gas industries.

Chapter 1 of the paper presents an overview of the oil and gas industries in Indonesia, including production and reserves of crude oil and natural gas, the contribution of oil and gas to the national economy, employment, and employers' and workers' organizations. Chapter 2 deals with working conditions in the oil and gas industries, including wages, working time, health and safety at work, training and career development, and the impacts of industry restructuring on working conditions. Chapter 3 examines the status of basic workers' rights in Indonesia and their implications for the oil and gas industries. In Chapter 4, the benefits to be gained from good social dialogue and the development of social dialogue in Indonesia are discussed. Chapter 5 provides a summary of the paper and suggests points for discussion.

# 1. Overview of the oil and gas industries in Indonesia

## 1.1. General review of Indonesia's oil and gas industries

Indonesia has been known for many years as a country in South-East Asia which is blessed with significant crude oil and natural gas reserves. Indonesia reports crude oil reserves of 8.6 billion barrels, with proven oil reserves of 4.3 billion barrels and potential reserves of 4.3 billon barrels in 2005.[1] In 2005, Indonesia ranked twentieth among world oil producers, accounting for about 1.4 per cent of the world's daily production. Statistics from the Directorate General for Oil and Gas (MIGAS) of the Ministry of Energy and Mineral Resources show that crude oil production averaged 934,800 barrels per day (bbl/d) in 2005, down from 965,800 bbl/d in 2004.[2] Crude oil production had declined over the past few years. In its "Blue Print Energy Policy 2025", Indonesia revealed its intention of achieving crude oil production of 1.3 million bbl/d by 2009.[3] In the face of falling oil production and slowing growth of natural gas production, Indonesia's energy policy gives priority to securing energy supply. The "Blue Print Energy Policy 2025" was announced in 2005 to delineate the measures through which Indonesia is trying to enhance energy supply security. These measures include diversifying energy sources, increasing the transparency of energy pricing, and improving energy efficiency.[4]

Most of Indonesia's proven oil reserves are located onshore, with the majority of Indonesia's oil fields situated in the central and western parts of the country. Recently, the focus of exploration has been moving to the frontier regions, particularly in eastern Indonesia. Sizable, but unproven, reserves may lie in the geologically complex, pre-tertiary basins of that part of the country.

Indonesia is abundant in natural gas. Indonesia's natural gas reserves are currently estimated at almost 190 trillion cubic feet (tcf), including proven natural gas reserves of 90.3 tcf. Most of the country's natural gas reserves are found offshore, and not all of these reserves are commercially viable. In 2004, Indonesia ranked thirteenth among the world's natural gas producers, and was the largest exporter of liquefied natural gas (LNG).[5] However, MIGAS reports that natural gas production has been relatively stagnant over the past five years, standing at 8,179 million standard cubic feet per day (mmscfd) in 2005.

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[1] US Embassy Jakarta, Petroleum Report Indonesia 2005–2006, June 2006, p. 12.
[2] Statistics from the Directorate General for Oil and Gas (MIGAS) of the Ministry of Energy and Mineral Resources of Indonesia, http://www.esdm.go.id
[3] US Embassy Jakarta, 2006, p. 15.
[4] "Indonesia. Recent energy trends and energy policies", APEC Energy Demand and Supply Outlook 2006, p. 33, http://www.ieej. or.jp/aperc/2006pdf/Outlook2006/ER_Indonesia.pdf

Oil and gas refining is an important activity of the oil and gas industries. The Government of Indonesia owns all nine refineries in the country, which are operated by the state oil and gas company PT Pertamina. In 2004, their combined refining capacity was 1.06 million bbl/d. According to government figures, in 2004 Pertamina's refineries operated at an average of 95 per cent of their production capacity and produced nearly 1 million bbl/d. Indonesia's refining capacity has remained unchanged for more than a decade. Indonesia has become a net importer of oil and petroleum products since July 2004 because its refineries have not developed to a level sufficient to meet domestic consumption. As a result, around 30 per cent of its refined products were imported. The Ministry of Energy and Mineral Resources has estimated that Indonesia needs about US$ 15 billion for the improvement of refinery facilities by 2009 in order to reduce the country's reliance on imported refined products.[6]

## 1.2. Contribution of oil and gas industries to the national economy

The oil and gas industries have been making a significant contribution to Indonesia's economic development. In fact, Indonesia's national revenues depend heavily upon the oil and gas industries, as demonstrated by Table 1. In 2001, government revenues from the oil and gas industries accounted for 34.59 per cent of total national revenues. However, the contribution of oil and gas revenues decreased sharply in 2002 and 2003, to 25.95 per cent and 23.57 per cent respectively.[7] The contribution of the oil and gas industries to government revenues increased slightly in 2004–2005, however. Some of the major reasons for the drop in national revenues from the oil and gas industries in 2002 and 2003 were declining investment, a reduction in production because of maturing oil fields, and frequent production disturbances.[8]

[5] US Embassy Jakarta, 2006, p. 32.
[6] US Embassy Jakarta, 2006, p. 23–26.
[7] US Embassy Jakarta, Petroleum Report Indonesia 2002–2003, March 2004, p. 13.
[8] US Embassy Jakarta, 2006, p. 12.

**Table 1. Contribution of oil and gas revenues to national revenues in Indonesia, 2001–2005**

| | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| Oil and gas revenues (billion rupiah (Rp)) | 104 142.64 | 77 480.07 | 80 464.40 | 108 205.64 | 137 675.75 |
| - Tax revenues | 23 101.69 | 17 469.07 | 18 962.54 | 22 946.61 | 34 975.99 |
| - Non-tax revenues | 81 040.95 | 60 011.00 | 61 501.86 | 85 259.03 | 102 699.76 |
| Government revenues (billion Rp) | 301 077.32 | 298 527.60 | 341 396.08 | 407 900.00 | 532 671.00 |
| Ration of oil and gas revenues against government revenues (%) | 34.59 | 25.95 | 23.57 | 26.53 | 25.85 |

Source: data on oil and gas revenue from MIGAS; data on the Government of Indonesia's revenue from Bank Indonesia (BI), *Indonesian Financial Statistics,* Vol. VIII No. 9, September 2006.

The oil and gas industries account for about 10 per cent of the gross domestic product (GDP) on average. Fluctuations in oil and gas production affect the share of GDP from the oil and gas industries. In 2001, the contribution of the oil and gas industries to GDP was 10.61 per cent. From 2002 to 2004, the percentage of GDP generated by the oil and gas industries declined to around 9 per cent. However, in 2005 the percentage increased to 11.07 per cent (see Table 2).

**Table 2. GDP from the oil and gas industries in Indonesia, 2001–2005**

| | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| GDP from oil and gas (billion Rp) | 178 680 | 162 752 | 195 479 | 201 090 | 302 116 |
| Total GDP (billion Rp) | 1 684 281 | 1 863 275 | 2 036 352 | 2 273 142 | 2 729 708 |
| GDP from oil and gas (%) | 10.61 | 8.73 | 9.60 | 8.85 | 11.07 |

Source: BI, *Indonesian Financial Statistics*, Vol. VIII No. 9, September 2006

Indonesia has had a positive balance of trade in oil and gas over the past seven years (see Table 3). Exports of crude oil and natural gas have generated significant income. During the period 2000–2006, oil and gas exports accounted for 24 per cent of Indonesia's annual export revenue. Income from oil and gas exports fell in 2001 and 2002 as a result of a decline in the price of crude oil. Rising world oil prices since the second quarter of 2002 have led to increases in export revenues from the oil and gas industries. The export value of oil and gas has continued to increase, reaching US$ 23.67 billion in 2006.

**Table 3. Oil and gas industries' contribution to Indonesia's foreign trade, 2000–2006 (US$ million)**

| | Exports(US$ million) | | | Imports(US$ million) | | |
|---|---|---|---|---|---|---|
| | Oil and Gas | Total | Oil and Gas (%) | Oil and Gas | Total | Oil and Gas (%) |
| 2000 | 16 925 | 65 408 | 25.88 | 6 509 | 43 593 | 14.93 |
| 2001 | 14 128 | 57 365 | 24.63 | 6 204 | 37 532 | 16.53 |
| 2002 | 14 244 | 59 165 | 24.08 | 7 150 | 38 359 | 18.64 |
| 2003 | 15 233 | 64 109 | 23.76 | 8 457 | 42 196 | 20.04 |
| 2004 | 17 682 | 72 164 | 24.50 | 12 136 | 55 009 | 22.06 |
| 2005 | 19 968 | 86 179 | 23.17 | 17 330 | 69 705 | 24.86 |
| 2006 | 23 673 | 103 964 | 22.77 | 17 183 | 78 393 | 21.92 |
| Average 2000-2006 | | | 24.11 | | | 19.85 |

Source: BI, *Indonesian Financial Statistics*, Vol. VIII No. 9, September 2006

## 1.3. Crude oil and natural gas reserves and production

As stated above, oil and gas production in Indonesia has been declining since 2001 (see Tables 4 and 5). According to statistics from MIGAS, Indonesia's petroleum production (including condensate) decreased from 1.3 million bbl/d in 2001 to 1.06 million bbl/d in 2005. During the same period, natural gas production fluctuated. From 7,690 mmscfd in 2001, it peaked in 2003 at 8,644 mmscfd, before declining in 2004 and 2005 to stand at 8,179 mmscfd in 2005. The decline in natural gas production has been created by limited existing gas production capacity. The Tangguh LNG facility is anticipated to begin production in 2008, which is expected to increase Indonesia's gas production.[9]

**Table 4. Production of petroleum products by volume in Indonesia, 2001–2005**

| Year | Petroleum (crude oil and condensate) (1 000 bbl/d) | Crude oil (1 000 bbl/d) | Condensate (1 000 bbl/d) | Growth in total production (%) | Growth in crude oil production (%) |
|---|---|---|---|---|---|
| 2001 | 1 340.6 | 1 208.7 | 131.9 | | |
| 2002 | 1 249.4 | 1 117.6 | 131.8 | -6.80 | -7.54 |
| 2003 | 1 146.8 | 1 013.0 | 133.8 | -8.21 | -9.36 |
| 2004 | 1 094.4 | 965.8 | 128.6 | -4.57 | -4.66 |
| 2005 | 1 062.1 | 934.8 | 127.3 | -2.95 | -3.21 |

Source: Directorate General for Oil and Gas (MIGAS), http://www.esdm.go.id

[9] International Petroleum Association (IPA) and PriceWaterhouseCoopers (PWC), The Urgency of Building Competitiveness to Attract Oil and Gas Investment in Indonesia, September 2005, p. 24.

**Table 5. Production of petroleum products and natural gas by volume in Indonesia, 2001–2005**

| Year | Petroleum Production(1 000 bbl/d) | Growth (%) | Natural gas Production (mmscfd) | Growth (%) |
|---|---|---|---|---|
| 2001 | 1 341 | | 7 690 | |
| 2002 | 1 249 | -6.80 | 8 318 | 8.17 |
| 2003 | 1 147 | -8.21 | 8 644 | 3.92 |
| 2004 | 1 094 | -4.57 | 8 278 | -4.23 |
| 2005 | 1 062 | -2.95 | 8 179 | -1.20 |

Source: Directorate General for Oil and Gas (MIGAS), http://www.esdm.go.id

Indonesia's oil and gas industries have confronted several crucial problems of decreasing oil and gas production. At present, oil and gas is being pumped mainly from maturing fields. Considerable investment in exploration to develop new wells has been lacking in recent years. Despite high crude oil prices since 2004, Indonesia has faced a decrease in investments in the oil and gas industries as a result of a number of uncertainties, including security issues, heavy taxation, unpredictability linked to the implementation of the new Act No. 22 of 2001 on oil and gas, and the ambiguity of the Government's position on developing the new wells or renewing contracts on existing wells.[10] As a result, many multinational oil companies shelved their investment plans between 2002 and 2004.[11]

In upstream activities, in order to increase the attractiveness of oil and gas investment in exploration and production, the Government has been revamping procedures for exploration and production contracts with foreign companies, and is also offering more attractive terms for exploration contracts, including simplified bidding procedures. Previously, foreign companies could only receive a concession by submitting an official tender. Under the new procedure, the Government accepts proposals from foreign companies without waiting for a formal bidding session.[12]

Data from MIGAS show that, over the past six years, Indonesia's oil reserves have continued to decline, standing at about 8.6 billion barrels in 2005. Oil reserves also decreased from about 9.7 billion barrels in 2002 to 8.6 billion barrels in 2005. Unless significant oil reserves are discovered, Indonesia's reserves may be exhausted within the next ten to 20 years.[13] However, gas reserves are abundant and could be supplied for at least 62 years at the current consumption level. Gas reserves increased modestly during the period 2000–2005 to 190 tcf, with 99.7 tcf of potential reserves and 90.3 tcf of proven reserves at the end of 2005[14] (see Table 6).

[10] US Embassy Jakarta, 2004, p. 14.
[11] IPA and PWC, 2005, p. 24; US Embassy Jakarta, 2004, p. 14; US Embassy Jakarta, 2006, p. 12–13.
[12] US Embassy Jakarta, 2006, p. 14.
[13] IPA and PWC, 2005, p. 25.
[14] IPA and PWC, 2005, p. 26; US Embassy Jakarta, 2006, p. 32.

**Table 6. Crude oil and natural gas reserves in Indonesia, 2000–2005**

| | Gas reserves (tcf) | | | Oil reserves (billion barrels) | | |
|---|---|---|---|---|---|---|
| | Potential | Proven | Total | Potential | Proven | Total |
| 2000 | 75.56 | 94.75 | 170.31 | 4.49 | 5.12 | 9.61 |
| 2001 | 76.07 | 92.1 | 168.17 | 4.66 | 5.1 | 9.76 |
| 2002 | 86.29 | 90.3 | 176.59 | 5.03 | 4.72 | 9.75 |
| 2003 | 86.96 | 91.17 | 178.13 | 4.4 | 4.73 | 9.13 |
| 2004 | 90.57 | 97.77 | 188.34 | 4.31 | 4.3 | 8.61 |
| 2005 | 99.7 | 90.3 | 190.0 | 4.3 | 4.3 | 8.6 |

Sources: statistics for 2000–2004 from Directorate General for Oil and Gas (MIGAS), cited in IPA and PWC (2005); data for 2005 cited from US Embassy Jakarta, 2006.

## 1.4. Oil and gas companies operating in Indonesia

Oil and gas production in Indonesia is highly concentrated on a number of multinational oil and gas companies. Data from MIGAS show that eleven major oil companies operate in Indonesia. Chevron is the largest of these, followed by Total, the China National Offshore Oil Corporation (CNOOC), Unocal, Exspan, ConocoPhillips, PetroChina, BP, Bumi Siak Pusako, VICO and ExxonMobil. The combined production of crude oil by these companies accounted for around 93 per cent of Indonesia's total crude oil production in 2004. Chevron controls about 46 per cent of total crude oil production.

Six multinational gas companies operate in Indonesia: Total, ExxonMobil, VICO, BP, Unocal and ConocoPhillips, combining to produce about 90 per cent of the Indonesia's total natural gas output in 2004. Total is the largest gas producer in Indonesia, accounting for 30 per cent of total gas production in 2004.[15]

## 1.5. Workforce

According to Indonesia's Central Bureau of Statistics of Indonesia (BPS), the evolution of the number of workers in the oil and gas industries in Indonesia showed fluctuations between 2001 and 2005 (see Table 7). The total number of workers, including production and non-production workers, dropped from 35,449 in 2002 to 32,393 in 2003. Several reasons explain this reduction in the workforce: the cancellation of a number of large investment plans in 2002;[16] the voluntary resignation programmes of

[15] US Embassy Jakarta, 2006, pp. 8, 12 and 32.
[16] US Embassy Jakarta, 2004, p. 14.

companies such as Caltex Pacific Indonesia (CPI), which reduced its workforce by 1,133 in December 2003;[17] and a number of mergers and acquisitions which took place in the oil and gas industries between 2000 and 2002.[18]

**Table 7. Number of production and non-production workers in the oil and gas industries in Indonesia, 2001–2005**

| Year | Petroleum and natural gas mining companies (workers) | Growth (%) | Petroleum and natural gas refinery companies(workers) | Growth (%) | Total (workers) | Growth (%) |
|---|---|---|---|---|---|---|
| 2001 | 21 346 | 21.88 | 13 476 | 8.15 | 34 822 | 16.17 |
| 2002 | 22 200 | 4.00 | 13 249 | -1.68 | 35 449 | 1.80 |
| 2003 | 20 596 | -7.23 | 11 797 | -10.96 | 32 393 | -8.62 |
| 2004 | 26 183 | 27.13 | 12 973 | 9.97 | 39 156 | 20.88 |
| 2005 | 25 259 | -3.53 | 12 969 | -0.03 | 38 228 | -2.37 |

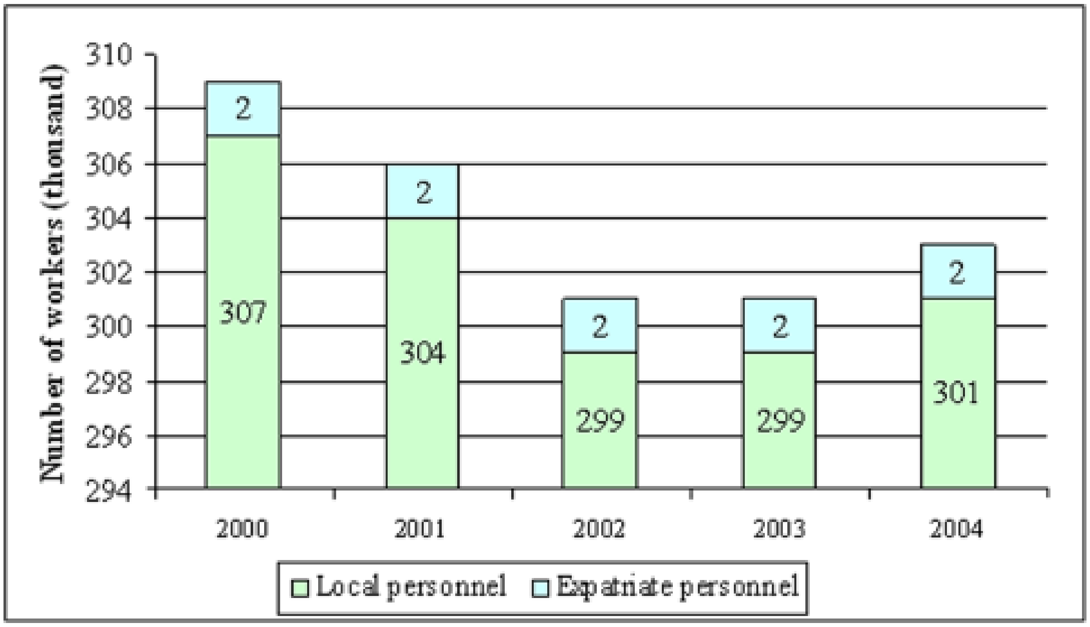
Note: The number of workers includes foreign workers.
Source: BPS, *Mining Statistics of Petroleum and Natural Gas*, 2002 edition, 2003–2004 edition, 2004–2005 edition.

However, the number of permanent workers in the oil and gas industries saw an increase in 2004, with an annual growth rate of about 20 per cent from 32,393 in 2003 to 39,156 in 2004. Significant increases in crude oil prices since the second half of 2002 invited new investment and services, which resulted in the creation of permanent jobs.[19] In 2005, the number of permanent workers decreased to 38,228, a drop of 2.37 per cent from the previous year. This was mainly due to the merger of Chevron and Unocal in August 2005 and completion of the acquisition of Novus Petroleum Limited by Indonesia's oil and gas company Medco Energi Internasional in August 2004.

According to data from BPS, it is estimated that, in 2005, the workforce in the oil and gas industries accounted for a mere 0.04 per cent of Indonesia's overall employment. According to data from MIGAS, direct employment in the oil and gas industries was estimated at about 308,000 at its peak in 2000. This figure decreased to about 300,000 in 2002, increasing again to 301,000 in 2004 (see Figure 1). According to a 2005 report by the International Petroleum Association (IPA) and PriceWaterhouseCoopers (PWC), it is estimated that Indonesia's oil and gas industries have potentially created as much as 37 times more indirect employment as direct employment.[20]

[17] US Embassy Jakarta, 2004, p. 17.
[18] US Embassy Jakarta, 2006.
[19] IPA and PWC, 2005.
[20] IPA and PWC, 2005, pp. 30 and 45

**Figure 1. Evolution of employment in the oil and gas industries in Indonesia, 2000–2004**




Source: Directorate General for Oil and Gas (MIGAS), cited in IPA and PWC, 2005, p. 29.

## 1.6. Composition of workforce

According to data from BPS, the number of production workers has exceeded that of non-production workers over the past five years. Table 8 shows the evolution of employment in exploration, production and refineries between 2000 and 2005.

**Table 8. Number of production and non-production workers in the oil and gas industries in Indonesia, 2000–2005**

| Year | Oil and natural gas and production | | | Oil and gas refineries exploration | | | TOTAL |
|---|---|---|---|---|---|---|---|
| | Production workers | Non-production workers | Subtotal workers | Production | Non-production workers | Subtotal | |
| 2000 | 10 863 | 6 651 | 17 514 | 7 907 | 4 553 | 12 460 | 29 974 |
| 2001 | 12 589 | 8 757 | 21 346 | 8 685 | 4 791 | 13 476 | 34 822 |
| 2002 | 12 525 | 9 675 | 22 200 | 9 170 | 4 079 | 13 249 | 35 449 |
| 2003 | 11 028 | 9 568 | 20 596 | 7 895 | 3 902 | 11 797 | 32 393 |
| 2004 | 13 820 | 12 363 | 26 183 | 9 219 | 3 754 | 12 973 | 39 156 |
| 2005* | 13 333 | 11 926 | 25 259 | 9 219 | 3 754 | 12 973 | 38 232 |

Source: BPS, *Mining Statistics of Petroleum and Natural Gas*, 2004–2005 edition
* Provisional data.

## 1.7. Domestic and foreign workers

The oil and gas industries in Indonesia are dominated by Indonesian nationals (see Tables 9 and 10). Between 2000 and 2005, Indonesia workers accounted for over 95 per cent of overall employment in the oil and gas industries. Foreign workers in the oil and gas industries are mostly found in the production sector. In the refinery sector, from 2000 to 2003, foreign nationals made up no more than 0.1 per cent of the overall workforce, as a result of the Government's policy of restricting the number of foreign workers in the oil and gas industries. The employment of foreign workers in the oil and gas industries is regulated by BPMIGAS. BPMIGAS is the body authorized to issue work permits to foreign workers in the oil and gas industries, and foreign workers are only permitted to work under production sharing contracts.[21]

**Table 9. Number of domestic and foreign workers in the oil and gas industries in Indonesia, 2000–2005**

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005* |
|---|---|---|---|---|---|---|
| *Production workers* | | | | | | |
| Domestic | 10 654 | 12 340 | 12 194 | 10 706 | 13 443 | 12 969 |
| Foreign | 209 | 249 | 331 | 322 | 377 | 364 |
| Subtotal | 10 863 | 12 589 | 12 525 | 11 028 | 13 820 | 13 333 |
| *Non production workers* | | | | | | |
| Domestic | 6 542 | 8 555 | 9 450 | 9 425 | 12 191 | 11 760 |
| Foreign | 109 | 202 | 225 | 143 | 172 | 166 |
| Subtotal | 6 651 | 8 757 | 9 675 | 9 568 | 12 363 | 11 926 |
| TOTAL | 17 514 | 21 346 | 22 200 | 20 596 | 26 183 | 25 259 |
| Percentage of domestic workers (%) | 98.18 | 97.89 | 97.50 | 97.74 | 97.90 | 97.90 |
| Percentage of foreign workers (%) | 1.82 | 2.11 | 2.50 | 2.26 | 2.10 | 2.10 |

* Provisional data
Source: BPS, *Mining Statistics of Petroleum and Natural Gas*, 2004–2005 edition

[21] Work permit regulations were set out in May 2005 by BPMIGAS (an implementing body for oil and gas upstream operations established by Government Regulation No. 42 of 2002).

**Table 10. Number of domestic and foreign workers in oil and gas refineries in Indonesia, 2000–2005**

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005* |
|---|---|---|---|---|---|---|
| *Production workers* | | | | | | |
| Domestic | 7 901 | 8 679 | 9 166 | 7 891 | NA | NA |
| Foreign | 6 | 6 | 4 | 4 | NA | NA |
| Subtotal | 7 907 | 8 685 | 9 170 | 7 895 | 9 219 | 9 219 |
| *Non-production workers* | | | | | | |
| Domestic | 4 545 | 4 783 | 4 072 | 3 895 | NA | NA |
| Foreign | 8 | 8 | 7 | 7 | NA | NA |
| Subtotal | 4 553 | 4 791 | 4 079 | 3 902 | 3 754 | 3 754 |
| TOTAL | 12 460 | 13 476 | 13 249 | 11 797 | 12 973 | 12 973 |
| Percentage of domestic Workers | 99.89 | 99.90 | 99.92 | 99.91 | NA | NA |
| Percentage of foreign Workers | 0.11 | 0.10 | 0.08 | 0.09 | NA | NA |

* Provisional data
NA = data not available.
Source: BPS, *Mining Statistics of Petroleum and Natural Gas*, 2004–2005 edition

## 1.8. Workers' and employers' organizations

There are five oil and gas employers' organizations:

- the Indonesian Petroleum Association (IPA);
- the Association of National Oil and Gas Companies (Aspermigas);
- the Association of Indonesian Oil and Gas Exploration Companies (Asperminas);
- the Association of Indonesian Oil and Gas Drilling Contractors (APMI); and
- the Indonesian Gas Association (IGA).

These associations do not negotiate issues concerning the employer-employee relationship with workers' organizations. Some oil and gas companies are affiliated to the Employers' Association of Indonesia (APINDO), which is the only employers' organization in Indonesia with the capacity to represent employers' interests in negotiations with workers and their organizations on employer-employee relations.

The current structure of workers' organizations in the oil and gas industries is founded on Act No. 21 of 2000 concerning trade unions/labour unions and Act No. 13 of 2003 concerning manpower. These Acts govern the formation of enterprise-based unions and industrial federations and confederations in the oil and gas industries. There are three sector-wide unions to which enterprise-based unions at privately-owned and publicly-owned enterprises may be affiliated:

- the Chemical, Energy and Mines Workers' Union (FSPKEP - SPSI), affiliated to the All Indonesian Workers' Union (SPSI);
- the Chemical, Energy and Mines, Oil & gas and General Workers Union Workers' Union (FSP-KEP), affiliated to the Confederation of Indonesian Trade Union (CITU); and
- the Mining and Energy Federation (FPE), affiliated to the Indonesia Prosperity Trade Union (SBSI).

There are also two other federations for unions at State-owned oil and gas companies may be affiliated: United Federation of Pertamina Trade Unions (*Federasi Serikat Pekerja Pertamina Bersatu* (FSPPB) and Federation of State-Owned Strategic Enterprise Workers' Unions (*Federasi Serikat Pekerja BUMN Strategis*).

Employees of the State-Owned oil and gas company Pertamina can join one of three workers' organizations at Pertamina: the Pertamina Trade Union (*Serikat Pekerja Pertamina*); the Workers' Forum (*Fortana*); and the United Federation of Pertamina Trade Unions (*Federasi Serikat Pekerja Pertamina Bersatu* (FSPPB)). The Serikat Pekerja Pertamina is affiliated to the Federation of State-Owned Strategic Enterprise Workers' Unions (*Federasi Serikat Pekerja BUMN Strategis*).[22] Pertamina has around 18,000 employees and 23 workers' unions, 20 of which come under the umbrella of the FSPPB.[23]

In Indonesia, the phrase s*erikat pekerja mandiri* is used to denote an independent workers' union. For example, employees of CPI belong to an enterprise-based union called Chevron Indonesia's National Workers' Union (SPNCI). Although Indonesian law allows any enterprise-based union to freely affiliate itself to a higher organization, many enterprise-based unions at foreign-owned enterprises happen to be independent.

## 1.9. Legal frameworks regulating the oil and gas industries

Article 33 of Indonesia's Constitution of 1945 states that all natural resources in the soil and the waters of the country are under the jurisdiction of the State and should be used for the benefits and welfare of the people.

[22] Information from Chairman of Serikat Pekerja Pertamina, 24 August 2007.
[23] State-owned strategic enterprises includes PT Telkom and PT Telkomsel (telecommunication), PT PLN (electricity), PT Pertamina (oil and gas), and PT Pembangkit Jawa-Bali (power generation). "FSP BUMN Strategis Tolak SLJJ", 20 September 2004, http://www.pikiran-rakyat.com/cetak/0904/20/0506.htm. State-owned strategic enterprises includes PT Telkom and PT Telkomsel (telecommunication), PT PLN (electricity), PT Pertamina (oil and gas), and PT Pembangkit Jawa-Bali (power generation).

The oil and gas industries are regulated by Act No. 44 of 1960 concerning oil and gas and Act No. 8 of 1971 concerning Pertamina. In October 2001, the new Act No. 22 of 2001 concerning oil and gas was passed by Parliament. The new Act allows for deregulation in the upstream and downstream sectors by 2004 and 2006 respectively. The Act provides for two new, independent agencies to take over Pertamina's upstream and downstream regulatory functions. These are the Upstream Oil and Gas Supervisory Agency (BPMIGAS), established in July 2002, and the Downstream Oil and Gas Supervisory Agency (BPHMIGAS), created in December 2002.

Private oil and gas companies have tried to penetrate the newly opened downstream energy sectors, including the processing, transportation, storage and distribution of oil and gas fuels in Indonesia. Private energy firms are also keen to produce petroleum products. However, these companies were confined to narrow niches because Pertamina took measures to preserve its market dominance and the Government extended Pertamina's exclusive role to the distribution of subsidized fuels, which account for about 80 to 90 per cent of domestic fuel consumption.

In October 2005, the Government issued regulations that limit the engagement of private companies in downstream business activities. Foreign companies wishing to operate fuel stations in Indonesia had to choose one of several available schemes. Such schemes cover the ownership of fuel stations, the requirement to have local partners, and the choice of petroleum products sold. In addition, only 20 per cent of a foreign-owned fuel station's total merchandise may consist of its own products, with the remaining 80 per cent supplied by Pertamina. Moreover, to distribute petroleum products, foreign companies must operate across Indonesia and are not allowed to restrict their distribution to one region. Deregulation of Indonesia's downstream oil industry has resulted in limited opportunities for private companies. However, a more competitive environment will develop by 2010, when regulations on retailing and refining energy products will have eased.[24]

## 1.10. Conclusion

Indonesia's oil and gas industries are integral parts of the global oil and gas industries. Developments in the oil and gas industries in Indonesia are closely related to events taking place in the industries at global level. Investments made by large, multinational oil companies have enormous impacts on employment in the oil and gas industries in Indonesia. Laws and regulations have significant implications for the oil and gas industries in particular. In this regard, the most important act to be passed

[24] US Embassy Jakarta, 2006, p. 6 and 8.

recently has been Act No. 22 of 2001 concerning oil and gas. Until this Act was promulgated, there were no laws or regulations promoting long-term investments in either industry, which resulted in several multinational oil companies shelving a number of investment plans in 2002 and 2004.[25] Reduced investment in Indonesia's oil and gas industries negatively affected employment in those industries. In addition, corporate structural changes, mainly resulting from mergers and acquisitions, had an adverse effect on employment in the oil and gas industries.

## 2. Working conditions in the oil and gas industries in Indonesia

The oil and gas industries offer some of the best wages and working conditions in Indonesia. A survey conducted by *Warta Ekonomi* magazine in 2005 shows that two large oil and gas companies in Indonesia are among the top ten companies in terms of wages and working conditions. At Pertamina, after working for five years as a supervisor, one employee reported that he has his own house and car. Another employee, an accountant, said that she receives more than Rp 5 million (US$ 508.65) a month, plus fringe benefits which include medical insurance. According to the survey, 22.16 per cent of respondents employed by Pertamina stated that it was an ideal company for employees, thanks to its high wages; 33.74 per cent described it as a "stable company"; and 15.57 per cent said it offered good amenities and workers' welfare facilities.[26] When the same survey was administered to employees of CPI, 33.12 per cent of respondents said that CPI was an ideal company thanks to high wages, 32.47 per cent said it had a "good company" image; and 11.69 per cent appreciated the career development offered by the company. Entry-level workers at CPI a receive basic salary of between Rp 7 million and Rp 11 million (between US$ 712 and 1,119) per month, higher than the standard wage in the oil and gas industries.[27]

### 2.1. Overview of wages in the oil and gas industries

In the oil and gas industries in Indonesia, wages are decided at company level. There is no sectoral negotiation in either industry. This is because oil and gas companies wish to set their wages at a level competitive with those of other companies in order to attract well-qualified people. Oil and gas companies are likely to keep information on wages confidential so that they can exercise control over how wages are determined. However, wages for contract workers are likely to be set at a low level. In particular,

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[25] US Embassy Jakarta, 2004, and 2006, p. 13.
[26] Warta Ekonomi, January 2007.
[27] Warta Ekonomi, January 2007.

wages of production and maintenance workers are likely to set no higher than the level of statutory minimum wage. According to the Chairperson of FS-KEP, contract workers in the oil and gas industries are paid only the legal minimum wage, and overtime, bonuses, pensions, social security, workers' health compensation, insurance and other benefits, which are all payable to regular employees, are not paid.[28]

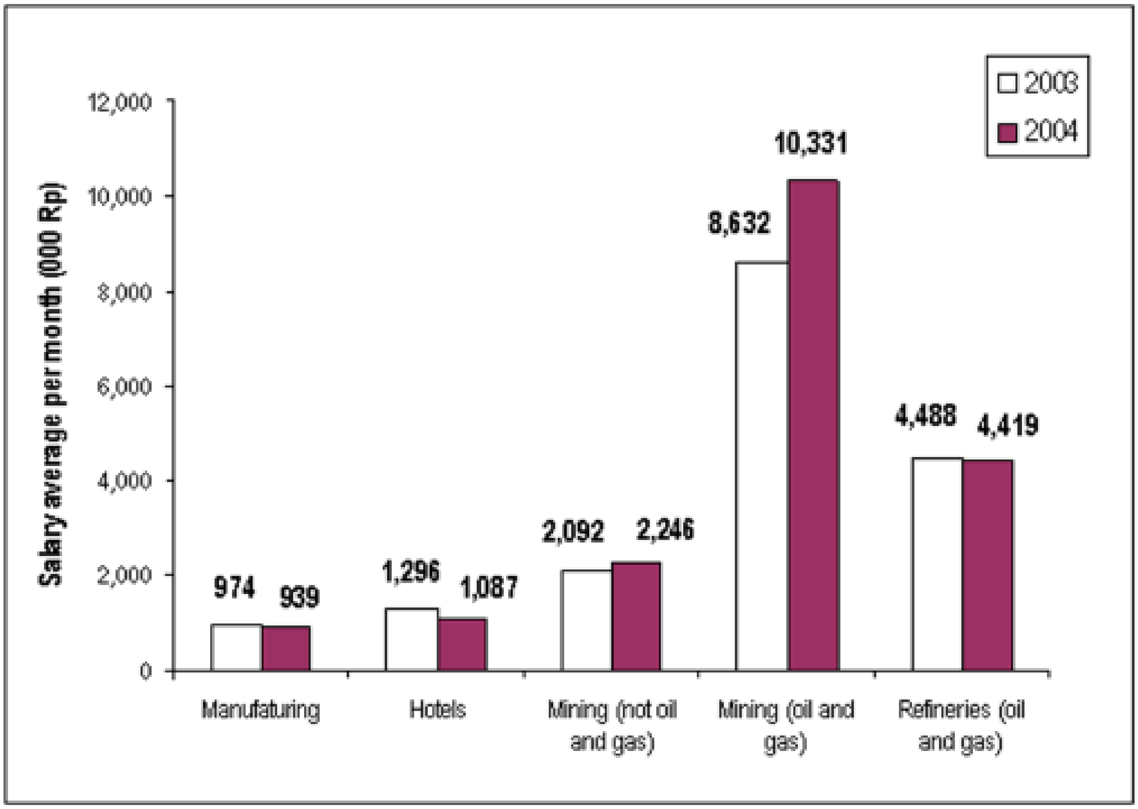
Among current good practices in the oil and gas industries are: (i) the payment of wages in cash; (ii) the payment of allowances in cash; (iii) the fact that wage scales are decided fairly, based upon workers' job tenure, expertise, and skill level; (iv) the fact that bonuses, benefits and overtime pay are based on actual performance; and (v) the fact that wage adjustments made in accordance with inflation rates are based on negotiations between employers and trade unions.[29] Stringent wage policies for the oil and gas industries are set out in law. Employers must comply with Act No. 13 of 2003 concerning manpower, which aims to provide oil workers with decent wages. This Act stipulates that workers should be paid more than the legal minimum wage, and should receive additional amounts in accordance with their grade, position, seniority, education and qualifications, and competencies. The Act also stipulates that companies must review workers' wages in line with increases in productivity and profits.

## 2.2. Wage levels

Wage levels for workers in the oil and gas exploration and production sector are overwhelmingly higher than in other economic sectors, such as the manufacturing, hotel, and even mining sector (see Figure 2). In 2004, production workers in the oil and gas industries earned Rp 10.3 million (US$ 1,180.72) per month, around ten times more than workers in the manufacturing and hotel sectors.[30]

[28] Interview with the Chairperson of FSP-KEP, D.P. Sjaiful, 27 April 2007.
[29] Information received from a CPI employee on 28 August 2007; BPS, Mining Statistics of Petroleum and Natural Gas, 2004 –2005 edition, p. 9.
[30] BPS, Wage Structure Statistics 2004–2005 and Mining Statistics of Petroleum and Natural Gas, 2004 –2005 edition.

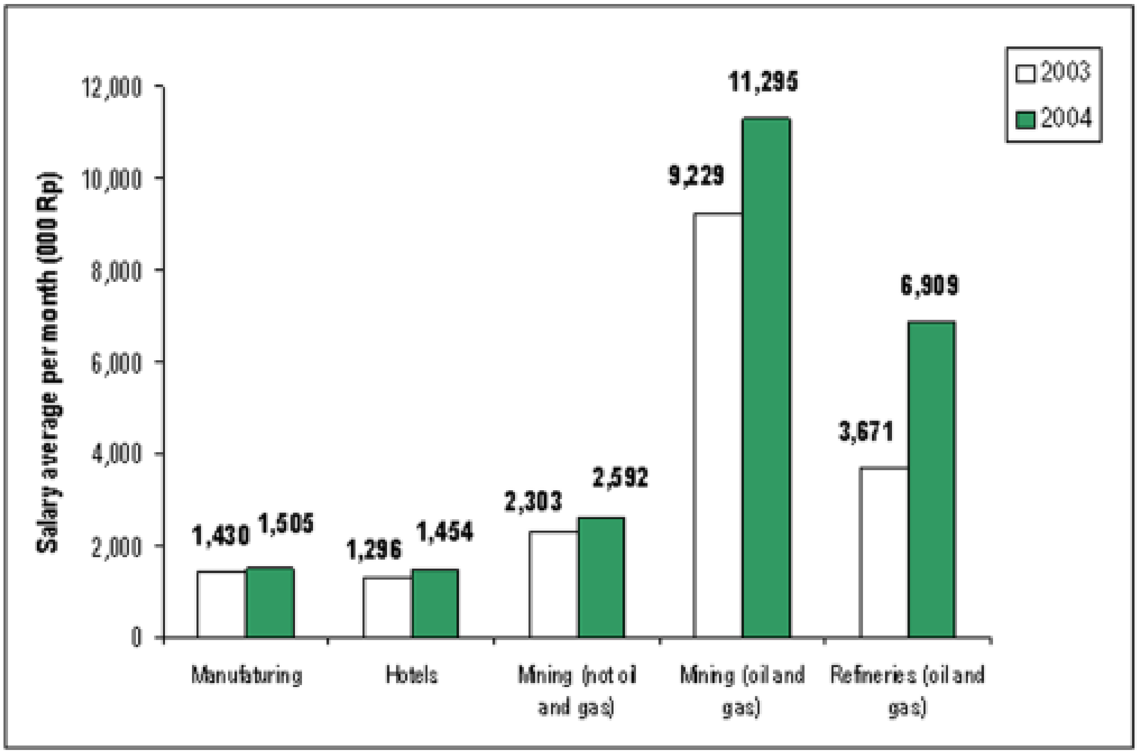
**Figure 2. Average monthly salary of production workers by selected sector in Indonesia, 2003–2004**




Source: BPS, *Wage Structure Statistics 2004–2005* and *Mining Statistics of Petroleum and Natural Gas*, 2004–2005 edition.

Similar trends are observed in the salaries of white-collar workers in the oil and gas industries. In 2004, non-production workers in the oil and gas exploration and production sector earned around Rp 11.3 million (US$ 1,216.36) per month, seven times more than workers in the manufacturing and hotel sectors (see Figure 3).

**Figure 3. Average monthly salary of non-production workers by selected sector in Indonesia, 2003–2004**




**Source: BPS, *Wage Structure Statistics 2004–2005* and *Mining Statistics of Petroleum and Natural Gas*, 2004–2005 edition.**

Between 2003 and 2004, a significant wage increase was observed. The liberalization of downstream activities in the oil and gas sectors drove both industries to recruit well-qualified workers, which pushed up wages throughout the industries. Wage increases are related to a lack of skilled workers in the global oil and gas industries, as can be seen from the wages paid to geologist-geophysicist-engineers (GGEs). Many multinational oil and gas companies wish to increase their production in the next few years, as crude oil prices increase worldwide. As a result of the limited supply of these skilled workers in the global labour market, Indonesian GGEs are recruited to Saudi Arabia, Malaysia, and other part of the world. Similar trends can be observed in other professional categories of workers in the oil and gas industries.[31]

[31] Information received from Rovicky, a senior geologist, 10 April 2007.

## 2.3. Wage systems

Generally, wages in the oil and gas industries are determined on the basis of several elements, such as the statutory minimum wage, average wages in the industries, and the human resources strategies adopted by each oil company. Seniority, grade and position are also taken into consideration in setting wages for regular workers. In addition to the basic wage, workers are entitled to various allowances, which are determined by, among other things: (i) competence; (ii) experience; (iii) seniority; (iv) areas of work; and (v) level of responsibility.

Contract workers are considered as part-time workers under Indonesian law. There are two kinds of contract workers: white-collar contract workers and blue-collar contract workers. Blue-collar contract workers are supplied by third-party employment agencies. They receive only basic wages, which are set at the level of the statutory minimum wage. Some companies oblige the employment agencies with which they work to give contract workers the same benefits as permanent workers.[32] However, in general, different compensation systems exist for contract workers or part-time workers and permanent workers. This has led to a welfare gap between part-time and permanent workers.

Recently, there has been an important development with regard to decent wages in the oil and gas industries. The Indonesian Seafarers' Association (KPI) urged the Government of Indonesia to comply with the ILO's core labour standards in the oil and gas extraction sector, in order to protect more than 2,000 uncertified, underpaid workers on offshore oil and gas exploration sites in Indonesia. These core labour standards need to be respected so as to ensure the safe operation of offshore rigs and vessels. The KPI further argued that working conditions should be determined in accordance with the international standards set by the Offshore Petroleum Industry Training Organization (OPITO).

The Chairman of the KPI said that many Indonesian workers employed on offshore exploration sites had been replaced by expatriates. These Indonesian workers lacked internationally recognized certificates of competence. As a result, Indonesian workers working on the Langsa offshore rig are paid between US$ 280 and US$ 1,000 per month, while certified expatriates with the same competence are paid between US$ 1,800 and US$ 6,200. The main reasons for this discrepancy are twofold. First, no approved mechanism to certify competence has been established in Indonesia. The Government has failed to ensure the constant maintenance and upgrading of the competence certification system for Indonesian oil and gas workers. Meanwhile, the National Work Competence Standards have become a de facto standard of job competence in the industries. Second, foreign oil and gas companies are not willing to invest the resources necessary to improve the competence of Indonesian workers. A lack of training prevents Indonesian oil and gas workers from obtaining well-paid jobs.[33]

[32] Information received from CPI employee on 28 August 2007
[33] Sijabat, Ridwan Max, "2,000 miners underpaid, uncertified", The Jakarta Post, 8 June 2007

## 2.4. Working time arrangements

Official statistics on working time arrangements in the oil and gas industries are not available. Our examination on working time in the industries is therefore based on information provided by oil and gas workers. According to an employee of CPI, working time in the oil and gas industries differs between office workers and onshore/offshore workers. In office/administration positions, the working week is set at 40 hours.

However, 24-hour shifts are the norm in onshore and offshore production work. CPI, for instance, applies a 14-day rotating work shift system for production workers, alternating between onshore and offshore. One employee at CPI stated that oil and gas companies normally set a work rotation called “3:2” (three weeks on duty followed by two weeks off duty), or “1:1” (one week on duty followed by week off duty). If worksites are located in extremely remote areas, workers are likely to stay on the sites longer: workers work for six weeks, followed by two weeks off duty (“6:2”).[34] In 2003, CPI changed the working time arrangements for oil field workers from “10:5” (10 days on duty and 5 days off, working a 12-hour shift) to “5:2” (5 days on duty and 2 days off, with a 12-hour shift).[35]

Oilfield workers have two breaks per day: one to coincide with a mealtime and the other during a shift of work. Office workers take a one-hour lunch break.

It is reported that working hours are relatively long in the oil and gas industries, where average weekly working hours exceed 50 hours. This contravenes Ministry of Manpower and Transmigration Decree No. Kep.234/MEN/2003 concerning work and rest periods in the energy and mineral resources sector in certain regions, which states that weekly working hours should not exceed 40 hours. Overtime work is more common among contract and part-time workers than permanent workers. In some cases, overtime premiums differ between offshore and onshore workers.[36]

## 2.5. Corporate restructuring and its implications for working conditions

The oil and gas industries in Indonesia form an important part of the global oil and gas industries. They are therefore directly affected by events in the global oil and gas businesses. The effects of the globalization of the oil and gas industries can be seen in several ways in the oil and gas industries in Indonesia.

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[34] Information received from CPI employee on 30 January 2007.
[35] "PT CPI Tetap Laksanakan Perubahan Jadwal Kerja," 3 April 2003, http://www.gatra.com/versi_cetak.php?id=26886
[36] Information from Rovicky, a senior geologist, 24 May 2007.

First and foremost, Indonesia's oil and gas industries have been significantly affected by mergers and acquisitions since 1997, some of which have involved major players in the industries (see Table 11). One of the most serious issues is job loss, since mergers and acquisitions often result in massive layoffs. One such notorious case was the 2003 Chevron–Caltex merger that led to at least 3,000 workers being made redundant in Indonesia alone.

Second, mergers and acquisitions in the oil and gas industries have created serious problems in employer-employee relations. These centre in particular on severance payments, social security, and the application of collective agreements in the new entities. Act No.13 of 2003 concerning manpower guarantees that collective labour agreements shall continue to apply even in the event of mergers or acquisitions. If multiple collective labour agreements exist before a merger or acquisition takes place, the one which offers the best terms for workers takes precedence.

Third, mergers and acquisitions have a significant impact on trade unions. The merger of different companies should arguably create larger and stronger trade unions. However, that is rarely the case. Instead, mergers and acquisitions often create inter-union confrontations, which prevent trade unions from strengthening workers' organizations. In addition, trade union activists are often victimized as a result of mergers and acquisitions because of employers' hostilities towards trade unions.

**Table 11. Major mergers and acquisitions in the oil and gas industries in Indonesia, 1997–2005**

| Year | Merger | Acquisition |
|---|---|---|
| 1997 | Ocean Energy and Seagull to form Ocean Energy Inc. (June) | |
| 1998 | British Borneo and Hardy to form British Borneo Oil and Gas Plc (Oct.) | |
| 1999 | Exxon and Mobil to form ExxonMobil Corp (Nov.) | |
| 1999 | El Paso and Sonat to form El Paso Energy Corp (Oct.) | |
| 1999 | Total and Fina to form TotalFina (June) | |
| 1999 | Lasmo and Monument to form Lasmo Plc (June) | |
| 1999 | Santa Fe and Snyder to form Santa Fe Snyder Corp (May) | |
| 1999 | Nisseki and Mitsubishi Oil Co. to form Nisseki Mitsubishi Abushild (Apr.) | |
| 1999 | Kerr McGee and Oryx to form KerrMcGee Corp (Feb.) | |
| 1999 | BP and Amoco to form BP Amoco Plc (Jan.) | |

| | | |
|---|---|---|
| 2000 | TotalFina and Elf to form TotalFinaElf Sam (Feb.) | Maple/Matrix takes over GFB Resources (Langsa) (Jan.) |
| 2000 | BP Amoco and Arco to form BP (Apr.) | Singapore Petroleum Company Ltd takes over LL & E Indonesia (Jan.) |
| 2000 | Santa Fe Snyder and Devon to form Devon Energy Corp (Aug.) | Agip takes over British Borneo (May) |
| 2000 | | Fortune (Indo Pacific) takes over GFB Resources (Java) Ltd (July) |
| 2000 | | Canadian Natural Resources takes over Ranger Oil (July) |
| 2000 | | Husky Oil Ltd takes over Renaissance energy (Aug.) |
| 2001 | Chevron and Texaco to form ChevronTexaco (Sep.) | |
| 2002 | Conoco and Phillips to form ConocoPhillips (Sep.) | PetroChina takes over Devon Energy (Apr.) |
| 2002 | | CNOOC takes over YPFMaxus (Jan.) |
| 2002 | | Conoco takes over Gulf Indonesia Resources (July) |
| 2004 | | Medco Energi takes over Novus Petroleum (Aug.) |
| 2005 | Chevron and Unocal (Aug.) | |

Source: US Embassy in Jakarta, 2006

## 2.6. Fatal accidents

Occupational safety and health is a priority for oil and gas companies. For example, BPMIGAS and firms employing workers on production sharing contracts emphasize their efforts to ensure workers' safety in oil and gas operations. They consider that safe working conditions have been fairly well established in their companies. The numbers of fatalities and non-fatalities in the oil and gas industries in Indonesia, according to BPMIGAS, are relatively low. According to BPMIGAS, the period 2002–2004 saw one fatality, six accidents leading to lost days, 57 accidents not leading to lost days, 247 cases requiring first aid, and seven casualties resulting from fire and other causes.[37] However, serious accidents still occur in the oil and gas industries, as shown in Table 12.

[37] BPMIGAS, BPMIGAS Performance Report 2002–2004, http://www.bpmigas.com/Laporan-2002-2004.asp

**Table 12. Fatal accidents in the oil and gas industries in Indonesia, 1970–2006**

| No. | Year | Accident location and company involved | Type of blowout Accident |
|---|---|---|---|
| 1 | 1970 | Mangunjaya-ASAMERA | Blow Out |
| 2 | 1975 | JTB-44-Pertamina | Crater in relief well |
| 3 | 1981 | Paluh Tabuhan-29 Pertamina | Oil rig caught fire, collapsed and crashed causing death of one employee |
| 4 | 1984 | PSJ-1 | Loss, kick and blowout |
| 5 | 1984 | Bekapai-7-Total | Crater; platform supporting seven wells caved in |
| 6 | 1992 | CMB-10 Pertamina | Explosion of Rig N80-UE, caused by blowout |
| 7 | 1996 | JTB -201 in Jatibarang CK-18 Karang Ampel | Blowout |
| 8 | 1997 | Kuala Simpang | Blowout caused by gas kick, followed by mudflow |
| 9 | 1997 | ATAKA-E Unocal | Offshore blowout |
| 10 | 2000 | KE-5E KODEKO | Well blowout |
| 11 | 2001 | Randublatung | Gas well blowout |
| 12 | 2002 | MBU-04 | Underground blowout, forming a crater |
| 13 | 2002 | Tunu E-5 K1-TOTAL | Gas blowout, blowing away the Swambarge Rig platform |
| 14 | 2004 | Rajawali-1 ENI Muara Bakau | Well blowout |
| 15 | 2004 | MSBY-01 KONDUR | Oil well blowout |
| 16 | 2006 | BJP-1 Lapindo Brantas Inc | Underground water and mud blowout |
| 17 | 2006 | Sukowati-5 PetroChina | Gas kick |

Source: www.jatim.go.id

## 2.7. Training

There is a close link between training and career development. Once workers have been recruited by the oil and gas companies, they are given initial training. They subsequently receive on-the-job training, under the supervision of an experienced employee, to enhance their general knowledge of safety, health, environmental issues, and the fundamentals of the oil and gas industries. The next phase involves enhancing specific capabilities and competence for specific tasks such as field engineering. On recruitment, a geophysicist undergoes a two-year comprehensive training programme, which includes a number of courses on safety and health, the environment, research, rock analysis on oil wells, and magnetic and gravitational potential field data analysis. Additional training in specific areas is encouraged, and usually combines on-the-job and off-the-job training. Overseas training is common practice for the highly qualified workers, such as GGEs. This is a strategy employed by companies with the aim of retaining well-qualified workers.[38]

Requirements for worker training are set out Act No. 13 of 2003 concerning manpower. Under this Act, employers are responsible for improving and developing their employees' competences (section 12:1). The Act also guarantees the right of workers to receive in-service training, stating that every worker shall have an equal opportunity to receive training in their area of work (section 12:3). Furthermore, the Act requires that training should be provided at government job training institutes and/or private training institutes which have been certified by the competent authority (section 13). The Act promotes employers to offer their employees training. However, the law recognizes an exception. The explanatory note of the law states that the administration of job training shall be adjusted to the needs of, and available opportunities at, each company, in order that company activities shall not be disrupted.

## 2.8. Career paths

Career paths in the oil and gas industries enable workers to choose how their careers will develop towards the higher levels of their various professions. For example, in the area of geology, a worker could be promoted first to junior geologist, then to geologist, senior geologist, staff geologist/chief geologist, geology manager, exploration manager, vice-president, and subsequently to general manager. However, in reality, not all geologists can become general managers. Many of them choose instead to become highly specialized within their field. For example, geologists reaching the apogee of their profession often become senior supervisors, such as geological advisers or senior geological advisers.[39]

## 2.9. Conclusion

Laws and regulations in Indonesia offer a good framework for improving workers' safety and working conditions in the oil and gas industries. However, some problems are recognized in the implementation of those laws and regulations. Some laws have serious loopholes which often work in favour of employers. Although there are laws requesting employers to provide workers with adequate training, many Indonesian oil and gas workers are less likely to receive training which is a prerequisite for higher pay, based on internationally accepted professional certification. The full implementation of all laws and regulations is required if wages and working conditions in the oil and gas industries are to be improved.

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[38] Information from Rovicky, a senior geologist, 5 April 2007.
[39] Information from Rovicky, a senior geologist, 18 April 2007.

# 3. Fundamental workers' rights in the oil and gas industries in Indonesia

## 3.1 Legal frameworks concerning fundamental workers' rights in Indonesia, including in the oil and gas industries

**Table 13 shows those ILO Conventions which have been ratified by Indonesia, as at 31 August 2007.**

Table 13. List of ILO Conventions ratified by Indonesia, 2007

| |
|---|
| Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) |
| Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27) |
| Forced Labour Convention, 1930 (No. 29) |
| Underground Work (Women) Convention, 1935 (No. 45) |
| Certification of Ships' Cooks Convention 1946 (No. 69) |
| Labour Inspection Convention, 1947 (No. 81) |
| Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) |
| Employment Service Convention, 1948 (No. 88) |
| Right to Organise and Collective Bargaining Convention, 1949 (No. 98) |
| Equal Remuneration Convention, 1951 (No. 100) |
| Abolition of Forced Labour Convention, 1957 (No. 105) |
| Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) |
| Discrimination (Employment and Occupation) Convention, 1958 (No. 111) |
| Hygiene (Commerce and Offices) Convention, 1964 (No. 120) |
| Minimum Age Convention, 1973 (No. 138) |
| Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) |
| Worst Forms of Child Labour Convention, 1999 (No. 182) |

Source: ILOLEX.

The legal frameworks underlying workers' rights in the oil and gas industries are provided by three major laws: Act No. 21 of 2000 concerning trade unions/labour unions; Act No. 13 of 2003 concerning manpower; and Act No. 2 of 2004 concerning industrial relations disputes settlement. These are summarized in Table 14.

**Table 14. Legal frameworks for fundamental workers' rights in Indonesia**

| Title of Law | Implementing Regulations | Description |
|---|---|---|
| Act No. 21 of 2002 concerning trade unions/labour unions | | The rights to organize and bargain collectively are protrcted in various sections of this Act: (1) a minimum of 10 workers needed to establish a union; (2) unions shall be free, open, independent and democratic; (3) no parties are allowed to interfere in internal union affairs; and (4) only court decisions can suspend or disassociate union activities. |
| | Minister of Manpower and Transmigration Decree No.16/MEN/2001 | Stipulates procedure for registering workers' unions |
| | Minister of Manpower and Transmigration Decree No.201/MEN/2001 | Stipulates representation in industrial relations bodies |
| | Minister of Manpower and Transmigration Decree No. Kep. 255/MEN/2003 | Stipulates the formation and membership of bipartite institutions |
| Act No. 13 of 2003 concerning manpower | | Regarding fundamental rights of workers, articles of the Act covers: (1) the principle of non-discrimination on any grounds in employment relations; (2) negotiation of collective labour agreements; (3) rules on employment termination; and (4) rules on strikes and lock-outs. |
| | Minister of Manpower and Transmigration Decree No. Kep. 48/MEN/IV/2004 | Stipulates company regulation and procedures for concluding and registering collective labour agreements |
| | Minister of Manpower and Transmigration Decree No. Kep. 255/MEN/2003 | Stipulates functions, procedure, membership composition, and term of service of bipartite institutions |
| | Government Regulation No.8 of 2005 | Stipulates functions, membership and composition of tripartite institution at national, provincial, district/city and sectoral levels. |
| Act No 2 of 2004 concerning industrial relations disputes | | The law provides for three ways of resolving industrial disputes: (a) bipartite negotiations; (b) alternative dispute resolutions: mediation, conciliation, and settlement arbitration; and (c) industrial court. |

Source: the various laws and regulations concerned.

## 3.2. Act No. 21 of 2000 concerning trade unions/labour unions

Act No. 21 of 2000 concerning trade unions/labour unions upholds the fundamental rights of workers in the oil and gas industries to form and join trade unions of their own volition and to bargain collectively. The Act defines the objectives of trade unions and trade union federations or confederations as promoting workers' interests and improving their welfare. The importance of this Act is that it allows workers to create more than one trade union at a single enterprise, provided that each union has a minimum of ten members. This provision has enhanced workers' choice, thereby fostering workers' aspirations, and strengthened the role of trade unions in industrial relations and dispute resolution. In the course of legitimate trade union activities, the law proscribes all forms of anti-union activities.

The Act also stipulates who may join a trade union. Section 15 restricts certain workers from joining trade unions because of potential conflicts of interest arising from their position within companies if they were to engage in union activities. Workers who are excluded from becoming trade union members include managers, foremen and supervisors.

Section 4 of the Act sets out the functions of trade unions, including, but not limited to, negotiating collective labour agreements with management on behalf of workers; resolving grievances and disputes; representing workers in labour related-issues; fostering harmonization to promote fair industrial relations; and protecting workers' interests and rights. Trade unions represent the interests of workers, and may plan and carry out strike actions in defence of those interests.

Act No. 21 of 2000 regulates procedures for the registration of trade unions. Under the Act, workers may engage in trade union activities during regular working hours, and discrimination against workers because of their union membership or participation in union activities is prohibited (section 28). The Act establishes guidelines for dissolving labour unions and penalties for violations of the Act. Trade unions should be financed from their members' dues, profits earned from union assets and economic activities, and unconditional assistance from third parties, including international solidarity assistance, which may only be used for the purpose of promoting workers' interests and improving their welfare (section 30).

## 3.3. Act No. 13 of 2003 concerning manpower

Act No. 13 of 2003 concerning manpower governs the rights of workers to decent work; the provision of adequate training by employers to enhance workers' competence, productivity and welfare; worker protection and occupational safety and health; and the form and terms of employment contracts. The Act also lays down employment conditions for women. Employers are required to pay extra allowances to cover women's night work, particularly during pregnancy. The maximum working hours for women workers are set at seven hours per day and 40 hours per week. The Act provides for the payment of decent wages. Severance payments in the case of redundancy are paid depending on workers' seniority, with additional allowances dependent on the same factor. In addition, the Act stresses the importance of fairness: employers should share the wealth which their workers create to reflect increases in the capacity and productivity of the company.

## 3.4. The right to strike

The right of workers to strike is enshrined in the Act No. 13 of 2003 concerning manpower and Act No. 21 of 2000 concerning trade unions/labour unions. However, in practice workers face various obstacles to the exercise of this right. Taking strike action is difficult as workers must complete lengthy procedures before they can exercise their right. These include pre-strike notification and approval from the company and the local Manpower office[40], and thus strikes are only allowed long after time-consuming mediation and arbitration procedures.[41]

In addition, under Act No. 13 of 2003, workers in many industries are prevented from holding strikes, particularly in those industries considered essential and strategically vital sectors of the national economy. Decree No. 1610K/02/MEM/2004 of the Ministry of Energy and Minerals Resources on the protection of Indonesia's vital assets[42] defines all areas of operations in the oil and gas industries as essential sectors, and strikes in these industries are forbidden in practice. This covers all operations run by State- and privately owned oil and gas companies including oil and gas exploration, production, depots, oil and gas refineries, and pipelines (plus all other businesses under the authority of the Ministry of Energy and Mineral Resources) under the protection of the police and relevant authorities. As far as the oil and gas industries are concerned, industrial actions is considered to affect the national interest, and the industries are required to complete special procedures before industrial action can be taken.

As stated above, Pertamina is a State-owned oil and gas company whose operations range from oil and gas exploration and production to distribution. The company employs around 18,000 workers.[43] The State-owned gas distribution and transmission Perusahaan

[40] Act No. 13 of 2003 concerning manpower, section 140
[41] ICFTU, "Internationally-Recognised Core Labour Standards in Indonesia", Report for the WTO General Council Review of Trade Policies of Indonesia, Geneva, 27 and 30 June 2003, p. 3.
[42] According to Decree No.1610K/02/MEM/2004 of the Ministry of Energy and Mineral Resources, which was issued in October 2004, "national vital assets" are defined as important assets or structures that are of national strategic value. The reasons given for not allowing strikes to be held include the fact that such assets provide public daily needs and any disturbance that affects them has an impact on national economic development, as well as on political stability.
[43] Muchwadi Muchtar, "Suara Pekerja; Jangan Lagi Ada Dusta di Antara Kita", Buletin Pertamina, Edisi No. 7/XLIII, 14 Mei 2007

Gas Negara (PGN Tbk) employs some 1,344 workers. Together, their employees constitute more than half the total number of workers in the oil and gas industries. Even though all of these workers enjoy the right to strike, they face restrictions on the exercise of this right.

## 3.5. Contract work

Act No. 13 of 2003 legalizes the outsourcing of labour by employment agencies (section 66). However, this raises concerns. Some contract workers consider that their welfare is under the responsibility of the companies where they work, rather than employment agencies. However, companies which employ contract workers consider that employment agencies are responsible for working conditions of contract workers because they think that, in line with Act No. 13 of 2003, the employment agencies hold the direct employment contracts, not the companies in which the workers are placed. Contract workers therefore can be victimized. A recent phenomenon is that some companies will lay off regular employees and re-hire them as contract workers in order to reduce labour costs. Section 59, subsection 2 of the Act, accordingly prohibits employers from re-hiring regular employees on a short-term basis.[44]

## 3.6. Collective labour agreements (CLAs)

The regulations enacted for the purpose of implementing Act No. 13 of 2003 include Ministry of Manpower and Transmigration Decrees No. Kep.255/MEN/2003, on the formation and composition of the bipartite dialogue institutions, and No. Kep.48/Men/IV/2004, on the formulation of company rules and collective labour agreements (CLAs). Decree No. Kep-48/Men/IV/2004 obliges companies to negotiate with their employees or registered trade unions.

No more than one CLA may be concluded in any one company. Decree No. Kep.48/Men/IV/2004 states that, if one company has several branches, a single CLA must apply to all branches within the company. Section 13 of Decree No. Kep.48/Men/IV/2004 states that workers in any one company must be represented in collective bargaining by a registered trade union which represents more than 50 per cent of the total number of employees in the company. If such a trade union does not exist, a bargaining team must be elected by the company employees. This team must obtain more than 50 per cent of company employee votes in a secret ballot. Alternatively, workers' elected representatives and trade unions can form a joint bargaining team in proportion to the number of members and non-members of trade unions at the company.

[44] Act No. 13 of 2003 concerning manpower.

The lifetime of a CLA is set at two years, but they may be extended once only for a further year. This means that CLAs normally apply for three years. CLAs must state at least the following:

- the rights and obligations of the company;
- the rights and obligations of employees/trade unions;
- the date when the CLA comes into effect and the date when the CLA will cease to apply;
- the company's name and address;
- the name, status and address of any trade unions;
- the names of any trade unions and the date when they were registered with the regional office; and
- the signatories of the parties entering into the CLA.

According to the Chairperson of FS-KEP, the key contents of a CLA in the oil and gas industries generally include: (i) employers' acknowledgement of trade union(s) (including type of activities, trade union administration, time allowed for conducting trade union activities, etc.); (ii) working conditions (working hours, overtime, rest periods, paid leave, holidays, etc.); (iii) wages (wage systems, wage scales, determinants of wage increases, such as inflation, etc.); (iv) discipline (reprimands, procedures for reprimands, disciplinary action, etc.); (v) discharge processes (rights of workers who are made redundant, severance payments, etc.); (vi) safety and health (personal protective equipment and protective clothing, etc.); and (vii) worker development (training, education, etc.).[45]

Provisions in a CLA must not contravene existing laws. The company must register its CLA at the Government's regional Manpower Office to allow the Government to monitor and supervise the implementation of the CLA. In addition to the registration of CLAs, employers must register with the regional Manpower Office information on their company and employees. This information must include the name and address of the company; the main areas of its business; the state of company capital/investment; the number of employees and a breakdown by gender; the status of industrial relations; the lowest and highest wages paid; the names and addresses of any enterprise-based trade unions; these unions' registration numbers; and the number of members they have. If a company has multiple branches or factories located in more than one province, it must be registered with the Directorate of Industrial Relations Development and Workers' Social Security of the Ministry of Manpower and Transmigration at the national level.

CLAs can be negotiated on company premises, at trade union offices, or at another location previously agreed upon by the employer and trade unions. Organizing collective

[45] Interview with Chairperson of FSP-KEP, 24 April 2007.

bargaining on company or trade union premises often raises problems of unequal bargaining power, and trade unions are often concerned about intervention by employers or third parties. A neutral venue is most likely to reduce any unnecessary interference in the bargaining process.

Trade union officials' negotiation skills are essential. Poor negotiation skills and a lack of understanding of the applicable laws are likely to undermine their effectiveness in successfully obtaining optimum CLA terms for their members. Trade union officials are therefore expected to be well-educated, skilful and experienced in negotiating on behalf of and representing their members. Equality of representation in CLA negotiations should not simply be based on number of representatives, but on the competence and capability of trade union officials.

The Chairperson of FS-KEP stressed the importance for union members of trade union officials' communication skills. CLA provisions can be substantial, and it can be difficult to give members a good understanding of all the terms used in a CLA. It is also difficult for trade union officials to negotiate with employers if they do not have sufficient capabilities to read and understand lengthy CLAs. Secondly, many CLAs use ambiguous terms which often lead to multiple interpretations. This gives employers room to interpret the terms of a CLA in their favour. Trade union officials therefore need to be furnished with good legal knowledge for the purpose of interpreting the complex provisions of CLAs.

The consequences of trade union officials lacking of adequate negotiation skills are demonstrated by the CLA resulting from collective bargaining at Halliburton. In return for offering workers higher wages than other oil and gas companies, the CLA includes provisions allowing the company to terminate employees' contracts when the company is suffering from slowdown. This effectively makes all employees in the Halliburton group "contract" workers, as their services can be dispensed with at the discretion of the company. Moreover, the CLA gives the company significant leeway, enabling it to discharge their employees at will. The CLA also allows the company to discharge employees through compulsory early retirement.[46]

## 3.7. Labour disputes in the oil and gas industries

There are no official data giving the total number of labour disputes in the oil and gas industries. However, a snapshot of some disputes which have occurred in these industries can provide an overview of the situation. Industrial disputes seriously affect operations in the oil and gas industries. One such example is a dispute which took place at Pertamina. Problems arose when Pertamina attempted to change its status from a

[46] Halliburton's collective labour agreement, 1 January 2005–31 December 2006.

government company to a limited company. The company was compelled to rationalize its structure in order to increase efficiency, productivity and competitiveness.

Major causes of disputes between employers and workers in the oil and gas industries between 1999 and 2007 include: 1) wages; 2) severance pay; 3) pensions; 4) discrimination against Indonesian workers; 5) undesirable working conditions; 6) management policies on working hours and voluntary early retirement and redundancy; 7) management refusals regarding the certification of trade unions by national trade union federations and management refusals to recognize democratically elected trade union leaders at company level; 8) the uncertainty of worker status; 9) new company logos; and 10) company performance and auditing (see Table 15).

**Table 15. Major industrial disputes in the oil and gas industries in Indonesia, 1999–2007**

| Year | Company | Issue |
|---|---|---|
| 1999 | Tripatra, a contractor for Caltex Petroleum | Workers accused Tripatra of failing to follow an Indonesian Ministry of Manpower and Transmigration directive to pay workers compensation and severance payment, and make them permanent employees. |
| 1999 | Caltex | Workers demanded higher wages. |
| 2000 | Caltex-Amoseas | Former workers of Caltex's business partner, Caltex-Amoseas, demanded the settlement of pension claims. |
| 2000 | Halliburton, Schlumberger and Borindo | The companies were accused of discrimination against their Indonesian employees, failure to provide minimum safety in their working conditions and violation of ILO standards. |
| 2002 | Tripatra Engineers and Constructors (TEC), a contractor for CPI | Workers refused the management's offer of voluntary early retirement for 2,700 workers. |
| 2003 | Caltex | Thousands of field workers of American mining company CPI threatened to go on strike if the management went ahead with its decision to cut the number of days off in the company.The management has changed working time by reducing the number of days off from five days to two days for every five working days. The current ruling in the company stipulates that workers employed in oil wells are allowed to take five days off for every five working days. |
| 2005 | Halliburton | The company challenged the certification of the Chemical Energy, Mines, Oil & Gas and General Workers' Union (FSP KEP) at a regional labour agency, claiming a plant union was in place. Halliburton has systematically attempted to weaken FSP KEP's representation status by refusing to recognise the union's shop-floor leaders, and then threatening to discharge FSP KEP leaders who step forward in the course of their union responsibilities. |

| | | |
|---|---|---|
| 2005 | Pertamina | Pertamina part-time workers rejected a unilateral decision by Pertamina's director to lay off 4,015 part-time workers and demanded a status change from part-time worker to permanent worker. Pertamina's director, Widya Purnama, was asked to step down by workers. Strikes occurred in Pertamina's branches. |
| 2005 | Pertamina | United Federation of Pertamina Trade Unions (FSPPB) rejected Pertamina's new logo and demanded the company's performance be enhanced. |
| 2007 | Pertamina | FSPPB demands the replacement of Pertamina's directors and a comprehensive audit of business processes and the company's culture. |

Sources: "Rights & environmental disputes flare", *Down to Earth No. 48, February 2001;*
"Indonesian oil workers win strike", 18 August 1999, http://www.greenleft.org.au/1999/372/18244;
"Indonesian Labour Update (3rd Quarter), January 2004, http://www.Indonesia-house.org/PoliticHR/2004/01/010504Sedane_Indonesian_labour_update.htm;
"Dirut Pertamina Dituntut Mundur", Kamis 11 August 2005, http://www.suaramerdeka.com/harian/0508/11/nas02.htm;
"SP Pertamina Tuntut Penggantian Direksi," 11 April 2007, Suara Merdeka, http://www.suaramerdeka.com/harian/0704/11/nas10.htm;
"Halliburton Out to Break Energy Union in Indonesia", 28 Nov 2005, International Federation of Chemical, Energy, Mine and General Workers' Unions, http://www.icem.org/?id=78&doc=1533,download

The factors that spark off disputes relate to Indonesia's national economic conditions. Economic downturns have frequently resulted in labour disputes. Often the causes of disputes are bread-and-butter issues such as higher wages, social security, severance payments, the uncertainty of employment, and unemployment. In addition, the causes of some disputes have undertones idiosyncratic to the oil and gas industries. Such factors include wrangles between employers and employees over contract workers (which has been one of the major causes of labour disputes at Pertamina); refusals by oil and gas companies to recognize the affiliation of trade unions to national federations and confederations; and refusals to disclose financial data and information on company performance to trade unions. Although the disclosure of financial data and information are not a common cause of disputes, because companies consider such information to be confidential, workers wish to receive this information so they can demand a fair share of the wealth they have created.

Some recent cases demonstrate that the oil and gas industries need to improve industrial relations to avoid industrial disputes (see Box 1).

**Box 1. Recent labour disputes in the oil and gas industries in Indonesia**

ChevronTexaco

Around 8,000 Indonesian oil rig workers held six-week strikes over their right to negotiate a new collective labour agreement. The strikers, who are members of the Indonesia Prosperity Trade Union (SBSI), were employed in central Sumatra by Tripatra, a contractor for Caltex Petroleum. They are short-term employees. The strike started in June 1999, following Tripatra's failure to honour a directive from the Indonesian Ministry of Manpower and Transmigration to pay compensation (including severance pay) and also to give the striking workers permanent employee status. In response to their demands, Tripatra called in the Indonesian military and police, who used tear gas and rubber bullets to break the strike. The intervention of a committee from the Indonesian Parliament resulted in a settlement under which the union agreed to end the strike, while the company agreed to reinstate all the striking workers. The company agreed to extend permanent status and full compensation to the striking workers after the expiry of its five-year contract in 2003.[47]

Halliburton

Halliburton is a US-based oil services company which provides contract services to many multinational and national oil companies such as CNOOC, ConocoPhillips, BP, Total and Caltex. In 2005 the company was starkly opposed to members of its information technology department serving as leaders of the Jakarta Chapter of the Federation of Chemical, Energy and Mines Workers' Union (FS-KEP). The company made attempts to withdraw certification of FS-KEP's Jakarta Chapter, ostensibly because its leadership included workers drawn from the IT sector, who the company considered to have access to sensitive and privileged company information, which excluded them from eligibility to serve as trade union leaders. In addition, Halliburton intentionally delayed negotiations on a CLA with FS-KEP for two years, until worker benefits were cut. The company refused to recognize FS-KEP's Balikpapan Chapter in East Kalimantan. The company supported a company-controlled union while threatening to dismiss the FS-KEP's leaders.[48]

[47] ICEM, "US Demo Backs Indonesian Texaco/Chevron Strikers" ICEM Press Release No. 41/1999, August 1999 (http://www.icem.org/en/3-Energy-Oil-and-Gas/365-US-Demo-Backs-Indonesian-Texaco-Chevron-Strikers); ICEM, "Indonesian Oilworkers Win Strike With World Union Support", ICEM Press Release No. 45/1999 (http://www.icem.org/en/3-Energy-Oil-and-Gas/297-Indonesian-Oilworkers-Win-Strike-With-World-Union-Support).

[48] ICEM, "Halliburton Out to Break Energy Union in Indonesia" 28 Nov 2005 (http://www.icem.org/?id=78&doc=1533, download 8 feb 2007); ICEM, Halliburton Interferes with Indonesian Union's Elected Officers, 12 December 2005 (http://www.icem.org/en/3-Energy-Oil-and-Gas/1555-Halliburton-Interferes-with-Indonesian-Union's-Elected-Officers).

## 3.8. Strikes in the oil and gas industries

There are no official statistics on strikes in the oil and gas industries. However, various secondary sources provide information on major industrial actions which took place in the industries between 1999 and 2007, as shown in Table 16. One important feature is that, once strikes occur in the oil and gas industries, they are likely to last longer than in other sectors. Many strikes last for several days, while the longest lasted six weeks.

**Table 16. Major strikes in the oil and gas industries in Indonesia, 1999–2007**

| Company | Issue | Number or workers involved | Period |
|---|---|---|---|
| Tripatra, a contractor for Caltex Petroleum | Tripatra's failure to follow an Indonesian Ministry of Manpower and Transmigration directive to pay workers compensation and severance pay, and make them permanent employees | 8,000 Indonesian oil rig workers | Six weeks, June–August 1999 |
| Caltex | Demands for higher wages | 3000 subcontracted workers working for Caltex | Several days in late November 1999 |
| Caltex- Amoseas | Former workers demanded the settlement of pension claims. | 30 former workers from a company which supplied workers to Caltex-Amoseas | January 2000 |
| Halliburton, Schlumberger and Borindo | The companies are accused of discrimination against their Indonesian employees, failure to provide minimum safety in their working conditions and violation of ILO standards. | Not available. | January 2000 |
| Tripatra Engineers and Constructor (TEC), a contractor for Caltex Pacific Indonesia (CPI) | TEC workers held demonstrations rejecting the management's offer of voluntary early retirement for 2700 workers. | Not available | December 2002 |
| Pertamina | Demanding the withdrawal of the director's decision to lay off 4,015 part-time workers and that their status be changed from part-time worker to permanent worker | Around 300 of Pertamina's part-time workers | 2 August 2005 to 22 September 2005 |

| | | | |
|---|---|---|---|
| Pertamina | Demanding the replacement of Pertamina's directors, and a comprehensive audit of business processes and the company's culture | Around 400 Pertamina workers | 10 April 2007 |

Sources: "Rights & environmental disputes flare", *Down to Earth No. 48, February 2001*;
"Indonesian oil workers win strike", 18 August 1999, http://www.greenleft.org.au/1999/372/18244;
"Indonesian Labour Update (3rd Quarter), January 2004, http://www.Indonesia-house.org/PoliticHR/2004/01/010504Sedane_Indonesian_labour_update.htm;
"Dirut Pertamina Dituntut Mundur", Kamis 11 August 2005, http://www.suaramerdeka.com/harian/0508/11/nas02.htm

Some industrial actions have occurred in the oil and gas industries as a result of restructuring and unstable employment shortly after the enactment of Act No. 22 of 2001 concerning oil and gas. After its enactment, many strikes occurred in which workers sought secure employment contract workers. As a result of strikes which took place before the enactment of the law, oil and gas companies concluded agreements with trade unions to guarantee that contract workers would be hired as permanent workers. However, after the enactment of the law, companies revoked those agreements and kept workers on short-term contracts.

The use of contract workers has been a divisive issue in the oil and gas industries because it is seen as the easiest way to reduce company costs in order to absorb the losses caused by fluctuations in the price of the crude oil. Workers, especially those who have served in the industries for many years, see the institutional use of contract workers as a sign of betrayal by companies ignoring international business norms, such as the corporate social responsibilities.

In Indonesia, the police and military have a long history of intervening in workers' demonstrations and strikes at the behest of employers. Employers often use militias and thugs. The police claim it is these thugs who are responsible for any violence, not the employers who hired them. The interference of the military or police in strikes in the oil and gas industries is not unusual in Indonesia. Some companies have realized that strikes can threaten production and company facilities. Hence, they use the security forces to break strikes. For example, in July 1999 Tripatra fired all strikers and used the Indonesian security forces to intimidate striking workers. The security forces fired tear gas and rubber bullets into a crowd of strikers, hitting one striker in the head and assaulting several others.[49] In September 2003, following announcement that TEC and CPI were to dismiss 1,655 contract workers, local police in Riau were called in with weapons in an attempt to avoid industrial action.[50]

[49] "Oil workers winning strikes", 12 August 1999, http://www.dagensarbete.se/home/da/home.NSF/unid/2DB66C5D4E3906BD412567CF0035C422?OpenDocument.
[50] Indonesian Labour Update (3rd Quarter), January 2004, http://www.Indonesia-house.org/PoliticHR/2004/01/010504Sedane_Indonesian_labour_update.htm.

However, on 24 March 2005 the Indonesian National Police issued "Guidelines on the Conduct of Indonesian National Police in Handling Law and Order in Industrial Disputes". These Guidelines were developed by the police with the support of the ILO, the Ministry of Manpower and Transmigration, trade unions and employers' organizations. The Guidelines restrict police involvement in disputes solely to the purpose of maintaining the peace. The Guidelines further provide that the police shall act in professional and proportionate manner, uphold human rights, remain impartial in dealing with the parties, respect the principle that all parties are equal before the law, and not become involved in any industrial dispute resolution process. However, the implementation of the Guidelines varies between regions, for example, between the Jakarta areas and other major industrial areas.[51]

## 3.9. Industrial dispute resolution

Act No. 2 of 2004 concerning industrial relations disputes settlement provides three options for resolving industrial disputes: (a) bipartite negotiations; (b) alternative dispute resolutions: mediation, conciliation and arbitration; and (c) the Industrial Relation Court, which were established in January 2007. The Act includes provisions on labour disputes as well as the termination of workers' contracts, two topics that were previously dealt with separately, in Act No. 22 of 1957 and Act No. 12 of 1964 respectively.

According to Act No. 2 of 2004, industrial disputes must be resolved, first and foremost, by consensus through the bipartite institutions (i.e. through bipartite social dialogue). Bipartite institutions established between employers and workers/trade unions are required to resolve disputes through social dialogue within 30 days of a grievance being filed. When bipartite institutions cannot reach a settlement, the dispute is sent to the local Manpower Officer who will advise the parties in the conflict to choose either conciliation or mediation within 30 days.

If mediation is chosen by the parties, the Manpower Officer will transfer the case to a mediator at the regional office of the Ministry of Manpower and Transmigration. The mediator will issue a recommendation, which, if agreed to and signed by both parties, is considered to constitute an agreement to resolve the dispute.

When conciliation is selected, the parties must use the services of a conciliator registered with the local Manpower Office. Conciliation must be completed within 30 days of the case being filed. When mediation or conciliation fails to resolve the conflict, a petition can be submitted by one or both parties to the Industrial Relations Court. If

[51] ICFTU, Indonesia: Annual Survey of Violations of Trade Union Rights (2006), http://www.icftu.org/display document.asp?Index=991223936&Language=EN.

the parties are not satisfied with the ruling of the Industrial Relations Court, the case may be sent up to the Indonesian Supreme Court.[52]

Table 17 gives details of the number of strikes per annum between 2001 and 2006 and how they were resolved. The figures include data from the oil and gas industries. The table shows that a number of strikes decreased from 174 cases in 2001 to 96 cases in 2005; however, it jumped to 282 cases in 2006. In 2002, about 70 per cents of strikes (156 of 220) were resolved by bipartite institutions, while only around 30 per cent (64 of 220) were resolved by government conciliation and arbitration services. However, the bipartite institutions are losing their role as a mechanism for resolving disputes. In 2006, only 16 per cent (46 of 282) of the overall number of strikes were resolved by bipartite institutions, while about 25 per cent of cases (70 of 282) were resolved by government arbitration and conciliation services. Other strikes resolution mechanisms accounted for about 59 per cent (116 of 282) of the total number of cases. It is noteworthy that, in 2006, many cases were resolved by other mechanisms, which can include out-of-court settlements. Out-of-court settlements became available after the Industrial Relations Court was established in January 2007, but this alternative has only been in use since May 2007.

A decrease in the use of bipartite institutions indicates the necessity of strengthening social dialogue between employers and workers in the workplace. A lack of trust between employers and trade unions may be indicated. This is because bipartite institutions do not receive support from employers. Employers often disregard the obligation to establish bipartite dialogue in the workplace. In 2005, there were only 7,866 bipartite institutions registered. Despite increasing to 10,431 in 2006, this figure is very small figure compared to the total number of companies registered in Indonesia.[53]

**Table 17. Number of strikes, mechanisms used to resolve them, hours lost and number of workers involved, Indonesia, 2001-2006**

| Industrial dispute resolution mechanism used | Number of strike cases | | | | | |
|---|---|---|---|---|---|---|
| | 2006 | 2005 | 2004 | 2003 | 2002 | 2001 |
| Bipartite | 46 | 69 | 84 | 108 | 156 | - |
| Regional manpower office | 70 | 27 | 28 | 38 | 64 | - |
| Central manpower office | | | | | | |
| Other mechanism | 166 | - | - | - | - | - |
| Total no. of strikes | 282 | 96 | 112 | 161 | 220 | 174 |
| Hours lost | 4.665.685 | 766.463 | 497.780 | 648.253 | 769.142 | 1.165.032 |
| Number of workers involved | 595.783 | 56.082 | 48.092 | 68.114 | 97.325 | 109.845 |

Source: Sub-Directorate for the Prevention of Industrial Relations Disputes, Ministry of Manpower and Transmigration, Jakarta, 31 December 2006.

[52] Act No. 2 of 2004 concerning industrial relations disputes settlement.
[53] Statistics on industrial relations institutions in Indonesia 2005–2006, Centre for Manpower Data and Information, Ministry of Manpower and Transmigration, May 2007.

The number of cases brought before the Industrial Relations Court has shown an upward trend in recent years. However, the cost of resolving cases through the courts is high, which imposes burdens on the parties, particularly workers. There are difficulties in understanding the procedures and implications of court decisions.[54] Procedures take time because of insufficient staffing within the relatively new court system, and there is an enormous number and backlog of cases to be dealt with. Costs are increased for both employers and workers because it takes a relatively long time for cases to be resolved. By the end of 2006, 67 cases had been filed. By March 2007, 53 cases had already been referred to the newly established Industrial Relations Courts.

## 3.10. Conclusion

Although the ILO's core Conventions have been ratified and fundamental workers' rights are upheld in the legal frameworks, industrial disputes still occur in the oil and gas industries in Indonesia, most of which result in lengthy industrial action. This indicates that the implementation of the ILO core Conventions needs to be strengthened. It is likely that the number of industrial actions in the oil and gas industries has been decreasing in recent years. However, this does not necessarily mean that good industrial relations are in place in those industries. Many of disputes in the oil and gas industries are caused by insecure employment and increasing flexibility in labour markets, partially as a result of the enforcement of Act No. 13 of 2003 concerning manpower. This Act has encouraged the oil and gas industries to undertake rationalization and has resulted in increasing job insecurity in both industries. A clear trend seen in recent years is that labour disputes between employers and workers/trade unions are less likely to be resolved at factory or company level. More and more cases have been resolved with the help of government arbitration and conciliation services. This indicates that the capacity and skills of employers and workers to negotiate and to resolve grievances need to be strengthened in these vital industries.

# 4. The role of social dialogue in Indonesia

Social dialogue is defined as all types of negotiation, consultation or simply exchange of information between representatives of governments, employers and workers on issues of common interest relating to economic and social policy.[55] Social

[54] One of the major complaints about the court system in Indonesia in general is that judges, by their own acknowledgement, consider the social and economic status of complainants and defendants prior to making verdicts, not to mention the corruption that characterizes many court cases in the Indonesian judicial system. It is hard to see how court cases involving industrial relations disputes will be any different (Dwiyanto, et al., Governance and Decentralization Reform, PEG-USAID and World Bank, July 2003).

[55] Lawrence S. and Ishikawa, J., Social dialogue indicators: Trade union membership and collective bargaining coverage: statistical concepts, methods and findings, ILO Working Paper No. 59, 2005, p. 3.

dialogue is the process of exchanging information and viewpoints with the purpose of fostering mutual understanding that might result in better industrial relations and/or negotiations.[56] Social dialogue can take place at national, regional or plant level, depending on the issue at stake. It is based on a number of principles, including cooperation among social partners and inclusiveness, involving the participation of workers as well as other actors such as government and employers/employers' organizations. The involvement of trade unions is essential to ensure that companies live up to their commitments pertaining to social dialogue. Effective social dialogue is only possible when the parties involved are on equal footing and when dialogue is underpinned by the national legal framework.[57]

Social dialogue plays a pivotal role in identifying important labour and social issues among the ILO's constituents. The ILO's fundamental principles and rights at work, and particularly freedom of association and right to bargain collectively, are the preconditions for social dialogue. However, the ILO's fundamental principles and rights at work also require the effective operation of social dialogue for them to be fully realized. Rights at work cannot be enjoyed without the capacity of governments and social partners (employers' and workers' organizations) to exercise their rights and without an institutional framework for dialogue to make it possible for these rights to be exercised in specific circumstances. Nor can social dialogue operate effectively without respect for adherence to these rights in practice. Since social dialogue does help in the identification of issues between labour and management, social dialogue is viewed as a flexible tool in industrial relations, designed to bring management and employees closer together.[58]

## 4.1. Benefits of social dialogue

At the enterprise level, effective social dialogue can improve industrial relations, which can increase a company's productivity and competitiveness. Social dialogue creates an atmosphere of mutual understanding between employers and workers. It facilitates social consensus and encourages the resolution of disputes, thereby avoiding the need to use conciliation or arbitration services, or even to resort to industrial action which has costs for both employers and workers. Employers and workers, without undue external intervention, are able to achieve an optimal balance, enabling them to share the benefits of growth.[59] Another benefit of effective social dialogue is the enhancement of a firm's image. By reducing the likelihood of human rights and labour violations

[56] ILO, Report for discussion at the Tripartite Meeting on the Promotion of Good Industrial Relations in Oil and Gas Production and Oil Refining, Geneva, 2002, p. 24.
[57] Ibid., p. 15.
[58] Sivananthiran, A., and Venkata Ratnam C.S., Social dialogue at enterprise level: Successful experiences, Indian Industrial Relations Association (IIRA) and ILO Subregional Office for South Asia, New Delhi, 2004, p. 3.
[59] Amalgamated Bank, Christian Brothers Investment Services, Connecticut Pension and Retirement System, Interfaith Centre on Corporate Responsibility, and New York City Employees' Retirement System, Supply chain and monitoring, 2004.

within a firm, social dialogue improves the firm's reputation and attracts institutional investors who are sensitive to human rights violations.[60] Social dialogue also reduces operational costs by relieving the companies of liability and litigation costs for non-compliance with labour standards and violating human rights. Improved workers' rights and business practices will improve working conditions, which will attract well-qualified workers who can boost productivity and competitiveness.[61] Good social dialogue is also linked to improved performance in the areas of occupational safety and health and the environment.[62]

## 4.2. Structure of social dialogue in Indonesia

One way of promoting social dialogue in Indonesia is through formal institutions, such as tripartite and bipartite institutions.

### 4.2.1. Tripartite institutions

Tripartite institutions (bodies for tripartite social dialogue) function as institutions for deliberation, consultation and cooperation between Government, employers and workers. Through tripartite institutions, representatives of employers' and workers' organizations can express their views and opinions to the Government, particularly the Minister of Manpower, governors and regents/mayors, on a wide range of labour-related policies.

As the policy of regional autonomy becomes more common in Indonesia, policy-making on labour issues and industrial relations increasingly takes place at the regional rather than the central level, leading regional and local tripartite bodies to assume greater importance than those at the central level.

Tripartite institutions at national, provincial, regency/city and sectoral levels are regulated by Government Regulation No. 8 of 2005 on tripartite institutions. By 2006, there was one tripartite institutions at national level, 30 at provincial level, and 268 at district/city level (see Table 18). A tripartite institution consists of representatives of Government, employers and workers at the relevant level, with a ratio of representation of 2:1:1.[63] While the national tripartite institution meets when necessary, the tripartite social dialogue bodies at regional level meet regularly and assist in formulating regional labour-related policies.

[60] Ibid.
[61] Ibid.
[62] Ibid.
[63] Government Regulation No. 8 of 2005 on tripartite cooperation institutions.

In addition to tripartite institutions at national and regional level, there are also sectoral tripartite institutions formed under Ministerial Decree No. 98 of 1994, covering five major sectors of the economy: mining and energy, communication and transportation, plantations, financial institutions, and public works. Under Government Regulation No. 8 of 2005, sectoral tripartite institutions can exist at the national and regional levels, with one representative each of Government, employers and workers.

**Table 18. Number of industrial relations institutions in Indonesia, 2005–2006**

| | Number of institutions | |
|---|---|---|
| | 2005 | 2006 |
| *Tripartite institutions* | | |
| National level | 1 | 1 |
| Provincial level | 30 | 30 |
| Regency/city level | 268 | 268 |
| Sectoral level | 5 | 5 |
| *Bipartite institutions* | 7.866 | 10.431 |

Source: Centre for Manpower Data and Information, Ministry of Manpower and Transmigration, 31 May 2007

## 4.2.2. Bipartite institutions

The plenary meeting of the National Tripartite Council held on 25 September 2003 reached an accord in recognition of the important role of bipartite forums at enterprise level in the promotion of good industrial relations and the creation of a sound business climate. Bipartite institutions are formed under Act No. 13 of 2003 concerning manpower and Ministry of Manpower and Transmigration Decree No. Kep.255/MEN/2003 concerning procedures for establishing bipartite cooperation institutions and their membership structure. Act No. 13 of 2003 obliges companies with more than 50 employees to establish bipartite institutions. In accordance with Ministry of Manpower Decree No. Kep.255/MEN/2003, bipartite institutions are intended to serve as a forum for communication, consultation and negotiation on issues relating to industrial relations between employers and workers/workers' organizations in the workplace. Bipartite institutions also aim to enhance productivity and business sustainability, and promote a good working environment.[64]

Bipartite institutions consist of representatives of employers and workers at a given company, regardless of the existence of a trade union at company level. If there are trade unions representing workers at the workplace, trade union officials are elected as the representatives to the bipartite institution. Where there is no trade union, the

[64] Ministry of Manpower and Transmigration Decree No. Kep. 255/MEN/2003 concerning procedures for establishing bipartite cooperation institutions and their membership structure.

representatives to the bipartite institution will be democratically elected from and by employees. Employers and workers have equal numbers of representatives. The total number of representatives to bipartite institutions is more than six but not more than 20. Representatives serve on the bipartite institution for a period of two years. The names of representatives to bipartite institution must be reported to the local Manpower Office. Bipartite institutions meet regularly, at least once a month.[65]

## 4.3. Examples of social dialogue instrumentalities in Indonesia

Social dialogue is one of the four pillars of the ILO's Decent Work Agenda. To strengthen the role of tripartite consultation, in 2005 the President issued Government Regulation No.8 of 2005 concerning tripartite cooperation institutions. Industrial relations in Indonesia are mainly based on: (i) the promotion of a common interest among Government, employers and workers; (ii) the enforcement of a mutual partnership between employers and workers; (iii) increasing productivity; and (iv) improving workers' welfare.[66]

Government Regulation No. 8 of 2005 strengthens the role of the national and regional tripartite institutions and promotes employer and worker participation by enabling them to share their views and opinions on various labour-related issues with central and district/city authorities.[67] Setting statutory minimum wages is one of the important tasks of tripartite institutions. For example, in the Jembrana Regency of Bali, the minimum wage for 2006 was determined through consensus between the Jembrana Regent, APINDO and SPSI, based on consultations within the tripartite institution.[68]

An important function of bipartite institutions is to resolve disputes at the company level. According to statistics from the Ministry of Manpower and Transmigration, in 2003 around 102,000 cases, or 89 per cent of the total of 114,000 disputes, were resolved by bipartite institutions. Acknowledging the important role of bipartite institutions in Indonesia over time, the Government of Indonesia has given its full support to bipartite institutions. At a plenary session of the national tripartite cooperation institution in March 2007, the Minister of Manpower and Transmigration stated that the Government would encourage employers and workers to maximize the functions of bipartite institutions in improving industrial relations.[69]

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[65] Ministry of Manpower and Transmigration Decree No. Kep. 255/MEN/2003 concerning procedures for establishing bipartite cooperation institutions and their membership structure.
[66] Hanartani, Myra M., Decent Work Programme in Indonesia, Report submitted to the 2nd Sub-Regional Tripar tite Forum on Decent Work In South-East Asia and the Pacific, Melbourne, 5–8 April 2005, p. 6.
[67] Government Regulation No. 8 of 2005 on tripartite cooperation institutions.
[68] Discussion on 2006 minimum wage in Jembrana Regency of Bali, http://www.jembrana.go.id/berita/index.php?action=detail&newsid=226
[69] "Bipartite role is more emphasized", Kompas, 6 March 2007, http://www.kompas.com/kompas-cetak/0703/06/ekonomi/3362852.htm.

## 4.4. Conclusion

Tripartite and bipartite institutions play an important role as instruments for dialogue at the central, regional and company levels. These institutions play an important role in creating harmonized industrial relations in all economic sectors in Indonesia, including the oil and gas industries. However, the role of these Institutions has been less important recently, despite the Government's attempt to revitalize these institutions in line with a decision taken in 2003. With the role of these institutionalized dialogue mechanisms losing significance, every effort must be made to strengthen social dialogue in the oil and gas industries.

# 5. Summary and suggested points for discussion

## 5.1 Summary

Indonesia's oil production is controlled by multinational oil companies. More than 12 multinational oil companies operate in the country. The combined oil production of these multinational oil companies accounted for 93 per cent of Indonesia's total oil production in 2004. Indonesia's oil and gas industries are currently estimated to employ nearly 40,000 people. The oil and gas extraction sector employs around 26,000 people. Oil and gas refineries employ about 13,000 people.

Although overall employment in the oil and gas industries fell in 2003, employment in the oil industries in recent years has been steadily increasing. It is estimated that direct employment in the oil and gas industries accounts for only around 0.04 per cent of Indonesia's total employment. However, indirect employment created by these industries may be as much as almost 37 times greater than direct employment in the oil and gas industries. Indonesian workers in the oil and gas industries account for more than 97 per cent of overall employment in the oil and gas industries.

Oil and gas revenues, both from taxes and non-taxes, accounted for around 26 per cent of national revenue in 2005, down from around 35 per cent in 2001, although the importance of oil and gas revenues remains unchanged.

Although several employers' organizations exist in the oil and gas industries, most of them are trade associations. APINDO is the only employers' organization which handles industrial relations with workers' organizations, but it does not have the capacity to negotiate collective labour agreements with workers or their trade unions.

Indonesian labour laws (Act No. 21 of 2000 concerning trade unions/labour unions and Act No. 13 of 2003 concerning manpower) govern the formation and activities of trade unions in the oil and gas industries. Workers who are employed by private oil companies can join one of three chemical, energy and mine workers' unions: FSP-KEP - SPSI, FSP-KEP and FPE. However, Pertamina, a State-owned oil and gas company, has around 23 workers' unions and three employee organizations at company level (Federasi Serikat Pekerja Pertamina Bersatu, Serikat Pekerja Pertamina, and Fortana) These employee organizations can affiliate with industry-wife federations. Trade unions at multinational oil companies are generally independent and do not affiliate with national federations.

Wages in the oil and gas industries in Indonesia are in general determined at company level, not at sectoral level, because oil companies use their wage policies to attract talented workers. Wage practices in the oil and gas industries provide workers with better conditions than in other economic sectors. Some practices include: payment of wages in cash; payment of allowances in cash; fair decisions on wage levels based on job tenure, expertise and skill levels of workers concerned; determining bonuses and other benefits based on performance; and adjusting wages in line with inflation. Wage levels among oil and gas workers are higher than in other economic sectors. On average, in 2004 oil and gas production workers earned about Rp 10.3 million (US$ 1,200) per month. Their wages can be as much as double those of refinery workers, and ten times higher than those of manufacturing workers. Meanwhile, non-production workers in the oil and gas industries earn around Rp 11.3 million (US$ 1,216) per month on average.

Some evidence shows that the global labour market influences events in Indonesia's oil and gas labour markets. For example, in 2004 salaries for oil and gas workers increased. This was because of a worldwide surge in crude oil prices, a shortage of skilled oil and gas workers, and the liberalization of the oil and gas industries.

Some important elements in determining wages in the oil and gas industries include local legal minimum wages, industrial average wages, and individual oil companies' human resources strategies and wage policies. Regular employees' basic wages are decided on the basis of workers' seniority and grade. In addition to basic wages, workers are normally entitled to allowances, which are determined in accordance with their competence, experience, seniority, area of work and level of responsibility. Wages for contract workers are determined separately, taking into account district/regency statutory minimum wages or provincial statutory minimum wages, with no allowances.

Working time for oil workers is relatively long. Oil and gas workers normally work one 12-hour shift per day. Offshore workers spend two weeks on the platform then have two weeks off. If worksites are located in remote areas, working time is likely to be longer and workers are compelled to work in a harsh environment. Shift work arrangements are the norm in the oil and gas industries. On average, oil and gas workers work 50 hours per week, which exceeds the legal maximum limit on working time by 10 hours.

The wave of global mergers and acquisitions in the oil and gas industries also affected the oil and gas industries in Indonesia. In fact, mergers and acquisitions resulted in a number of job losses. Mergers and acquisitions have raised a number of serious problems, particularly in terms of employer-employee relations. Most disputes are centred on severance payments, social security contributions, and the continued application of collective labour agreements at new entities. Act No. 13 of 2003 concerning manpower guarantees the succession of collective labour agreements in force at the time of corporate structural changes, including mergers and acquisitions. The Act specifies that, where more than one collective labour agreement exists in companies before mergers and acquisitions take place, the collective labour agreement which offers the best terms to workers shall take precedence. As a result of mergers and acquisitions, workers' organizations often become smaller or have fewer members. Mergers and acquisitions have also resulted in inter-union conflicts between trade unions.

Basic workers' rights, such as freedom of association and the right to bargain collectively, are guaranteed under Indonesian legislation. One indicator of good industrial relations is ratification of the ILO core Conventions. ILO Conventions which Indonesia has ratified include the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Abolition of Forced Labour Convention, 1957 (No. 105), the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182).

The implementation of these Conventions through national laws and practices is essential to ensuring good industrial relations in the oil and gas industries. The principles of the ILO core Conventions have been transposed into Indonesian national laws, including Act No. 21 of 2000 concerning trade unions/labour unions, Act No. 13 of 2003 concerning manpower, and Act No. 2 of 2004 concerning industrial relations disputes settlement. However, in practice, these laws impose restrictions on the exercise of workers' basic rights. One clear example is the right to strike. The right to strike is guaranteed by section 137 of Act No. 13 of 2003 concerning manpower. Under this Act, workers can strike following completion of the procedures set out in the Act. However, in reality, the Act imposes burdens on workers who wish to undertake industrial action. Under the Act, workers must convey their intention to stage a strike to the company or a local Manpower Office seven days prior to the strike taking place. They have to state at what time it will start and end, its location, and the reasons for the strike. Strikes are in fact extremely difficult, as lengthy procedures must be completed in order to exercise the right to strike. Such constraints include pre-strike notification, the requirement for approval from the company and the local Manpower office**,** and government endeavours to prevent strikes right up until the last moment.[70] In addition, the Act presents another

[70] Act No. 13 of 2003, sections 140 and 141.

hurdle to workers in the oil and gas industries, preventing them from taking industrial action. Decree No. 1610K/02/MEM/2004 of the Ministry of Energy and Minerals protects natural resources, putting all areas of oil and gas operations (including both state and private operations), production sharing arrangements, depots, refineries, and pipelines under the protection of the police and appropriate regional authorities, which makes it practically impossible for workers to take industrial action. The State-owned oil and gas company Pertamina employs about 18,000 workers, and the State-owned gas distributor PGN Tbk employs about 1,400 workers. Decree No. 1610K/02/MEM/2004 prevents these workers from taking part in industrial action.

The dominant causes of disputes in the oil and gas industries include demands for higher wages and severance pay, pension funds, discrimination at work, poor working conditions and occupational safety and health, working hours, demands for permanent employment contracts, unfair labour practices and, in particular, company refusals to allow the formation of trade unions. Many disputes between employers and workers in the oil and gas industries are related to bread-and-butter issues. When the national economy is struggling, it is more likely that labour disputes will arise in the industries. Stable employment is therefore the single most important issue for both regular employees and contract workers, and this requires good industrial relations.

Reasons for industrial action in the oil and gas industries vary. Industrial action in these industries is likely to last for relatively long periods because they often involve important issues, such as restructuring. The involvement of the military or police is frequently observed, because oil companies invite these forces to come to their premises in order to ensure oil production. It is said that, in Indonesia, the military or police are generally likely to intervene in any industrial action. However, in March 2005, the Indonesian National Police issued "Guidelines on the Conduct of Indonesian National Police in Handling Law and Order in Industrial Disputes". These Guidelines restrict arbitrary police involvement in industrial action and request police officers to act in a professional manner and uphold human rights, remaining impartial with respect to all parties in dealing with disputes.

Under Act No. 13 of 2003, the Government of Indonesia promulgated Decree No. Kep.255/MEN/2003 of the Ministry of Manpower and Transmigration on promoting social dialogue. Social dialogue plays an important role in resolving disputes at company level. Under Act No. 2 of 2004 on industrial relations disputes settlement, industrial disputes must be resolved, first and foremost, through efforts between the parties concerned at company level. Bipartite dialogue between the company and workers and their unions must be held within 30 days of a complaint being submitted to the authorities. However, it is noteworthy that the use of bipartite social dialogue mechanisms for resolving disputes has decreased recently. Workers are more likely to have recourse to institutional remedial procedures. This is one indication that social dialogue does not adequately function in Indonesia and that workers are not inclined to trust their employers or trade unions.

In Indonesia, tripartite and bipartite social dialogue is in the process of development. Tripartite social dialogue does not exist in the oil and gas industries. The use of tripartite social dialogue is limited to national and regional tripartite institutions, for example in determining minimum wages and discussing various labour-related issues. Bipartite social dialogue has been developed as a mechanism for resolving labour disputes. However, social dialogue in the oil and gas industries is not well developed and need to be strengthened, particularly in the areas of capacity for negotiations and dialogue at all levels in the industries, in order to prevent occurrences of serious industrial disputes and promote sustainable economic development.

## 5.2. Suggested points for discussion

1. What are the key elements that underpin good industrial relations in the oil and gas industries in Indonesia? What roles do Government and employers' and workers' organizations play in developing and strengthening these elements?
2. What are the industrial relations issues, such as wages, working conditions, collective bargaining, occupational safety and health, and contract work, which are of special concern to the oil and gas industries in Indonesia? How should these be improved?
3. How can existing institutions for bipartite and tripartite social dialogue in the oil and gas industries in Indonesia be improved and more such institutions established?
4. What are the capacity-building needs of those in Government, companies and workers' organizations who deal with industrial relations in the oil and gas industries in Indonesia, in order to establish sound industrial relations leading to increased productivity and profitability?
5. What roles do Government and employers' and workers' organizations play in increasing oil companies' compliance with laws and regulations related to fundamental workers' rights, as set out by the ILO, in the oil and gas industries in Indonesia? To which activities should the ILO, the Government of Indonesia, and employers' and workers' organizations at international and national level give priority in order to enhance social dialogue with a view to promoting good industrial relations in the oil and gas industries in Indonesia?